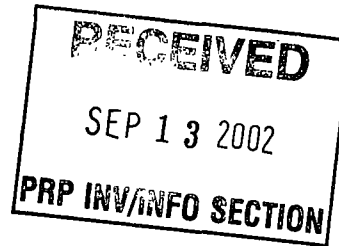


Jacque' McCormick  
Director-Environment Management

verizon

Verizon Communications  
700 Hidden Ridge, HQW01305  
Irving, TX 75038  
jacque.mccormick@verizon.com  
(972) 718.6032  
(972) 718.7873 fax

September 12, 2002



Ms. Carlyn Winter Prisk (3HS11)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Re: Required Submission of Information  
Lower Darby Creek Area Superfund Site – Clearview Landfill, Folcroft Landfill, and Folcroft  
Landfill Annex  
Dated August 9, 2002

Dear Ms. Prisk:

This letter contains the response of Verizon Pennsylvania, Inc. (VPA) to Ms. Joan Armstrong's request, on behalf of the U.S. Environmental Protection Agency, Region III for information. According to Ms. Armstrong's letter, the requested information relates to the Clearview and Folcroft Landfill sites in the Lower Darby Creek area ("Site"). While your letter was addressed to Verizon Communications Inc., that company is merely a holding company that does not carry on any activities that could result in CERCLA liability. VPA is the entity that operated in Pennsylvania and is the proper party to respond to your request. Therefore, without waiving any objections to the letter being sent to Verizon Communications Inc, VPA is responding to your requests.

VPA has made a diligent search for information that is responsive to the EPA's request. Despite this effort, VPA has found absolutely no information indicating that it may have sent any materials to the site. Based upon the information provided by EPA, it appears that the EPA's sole basis for believing that VPA may have sent materials to the site relates to an interview with an unidentified former landfill employee/owner and a contract agreement between Bell Telephone Company of Pennsylvania (Now VPA) and SCA Services a trash disposal firm. As can be seen in the responses, even if all of the information in the nexus documents supplied by EPA is accurate and correct, any of the trash that was likely picked up by the transporter would not be of a nature that it would trigger CERCLA liability. Rather, all of the trash is similar in nature to general municipal waste. VPA does not manufacture products. The only hazardous materials that VPA must manage that would exist in any significant quantity have historically been recycled by VPA. Therefore, none of these materials should have been in the general trash or brought to the site.

In addition to investigating whether VPA had any business relationships with the site, VPA attempted to determine exactly what types of operations were associated with the operations located on the contract document provided by EPA. Interviews with past or present employees indicate the facilities listed in the contract were switching offices or administrative buildings in and around Philadelphia. VPA did not contract with any disposal facility directly and has no records of which facilities may have received our waste in the requested time period.

VPA has made a diligent search for information that is responsive to your request. Nevertheless, because of the long time period covered by the request, the dates involved, the breadth of information requested and the large number of facilities operated by VPA, there is a possibility that VPA has not

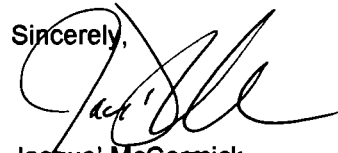
Ms. Carlyn Winter Prisk (3HS11)  
September 12, 2002  
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found all relevant information. VPA reserves the right to update this response if it uncovers additional information.

In addition, while VPA is responding to this information request, I want to note that VPA objects to the request because it is unnecessarily broad, asks for irrelevant information and is burdensome as well as redundant. In addition VPA objects to the EPA's reliance upon information being supplied by an unidentified individual who VPA is not able to talk to. Please understand that VPA does not waive any of its objections and that it does, in fact, assert these objections.

To my best knowledge and belief the information contained in this report is true and accurate. If you have any questions about this response, please feel free to contact our counsel, David Feldman at 212-395-6362 or myself.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jacques' McCormick', written over the word 'Sincerely,'.

Jacques' McCormick  
Director-Environment Management

JDM/rd  
Attachments (7)

cc: David Feldman w/Attachments

## **Documents Attachments**

**Attachment A: Bell Atlantic Records management Policy (Corporate Policy Statement 130)**

**Attachment B: USA Waste of Philadelphia Inc Contract**

**Attachment C: Hazelton Oil Salvage Contract**

**Attachment D: Waste Management Services Contract**

**Attachment E: Safety Kleen Contract**

**Attachment F: Planet Earth Recycling Contract**

**Attachment G: Acushnet Co. vs. Coaters International**

## **DOCUMENT REQUEST**

**VPA found no documents relating to any business relationship between VPA and the noted vendors. VPA now has the contract document supplied with the information request. While that contract document indicates that Verizon has sent trash to contracted waste haulers, we do not have any reason to believe that Verizon ever sent any hazardous materials to the site. As discussed below, the wastes that would have been sent to a waste hauler under that contract would have been consistent with general municipal trash.**

## **ANSWERS TO SPECIFIC QUESTIONS**

1. State the name of your company, its mailing address, and telephone number. Further identify:  
a) The dates and states of incorporation of your company; b) The date and original state of incorporation of your company; c) The parent corporation of your company, if any, and all subsidiaries or other affiliated entities

**This response is made on behalf of Verizon Pennsylvania Inc. The mailing address registered with the Commonwealth is 1717 Arch Street, 32nd Floor, Philadelphia, PA 19103 (however as stated below VPA requests that notices be sent to David M. Feldman, Counsel, Verizon Pa Inc., 1095 Avenue of the Americas – Room 3806, NY, NY 10036). The main telephone number is (215) 466-9900 (however if EPA wants to call VPA about this matter, please call Mr. Feldman at (212) 395-6362).**

- a. & b. **Verizon Pennsylvania Inc. was incorporated in Pennsylvania on September 18, 1879 as The Bell Telephone Company of Pennsylvania. On January 4, 1994 the name of the company was changed to Bell Atlantic-Pennsylvania, Inc. On August 1, 2000 the name of the company was again changed to Verizon Pennsylvania Inc.**
  - c. **The parent corporation of Verizon Pennsylvania is Verizon Communications Inc. located at 1095 Avenue of the Americas, New York, NY 10036. VPA has numerous subsidiaries and affiliated companies, none of which have any real possibility of having any relationship to this matter. VPA assumes that EPA does not really require this information, and therefore, has not included this list at this time. If the EPA does want this information, it will be supplied to EPA as Business Confidential upon request.**
2. What is the current nature of the business or activity conducted at your establishment(s) in the Philadelphia, Pennsylvania area? What was the nature of your business or activity between 1958 and 1976? Please describe in detail. If the nature of your business or activity changed from the period of 1958 to 1976 to the present, please provide a detailed explanation of the changes to date.

**During the relevant time period (as well as today), VPA was a local-exchange telephone service provider for most of the Philadelphia Metropolitan area. All VPA facilities conducted one or more of the following activities: general office activities, central office**

activities, maintenance of telephone switching equipment, and work centers from which technicians are dispatched to perform various services relating to telephone installation and repair. None of these facilities (nor any other facility of which we have any knowledge) conducted any manufacturing, processing, research or development.

3. Identify all persons currently or formerly employed by your establishment(s) who have or may have personnel knowledge of your operations and waste disposal practices between 1958 and 1976 at your facilities in the Philadelphia, Pennsylvania area. For each such person, state that person's employer, job title, dates of employment, current address, and telephone number. If current telephone number of address is not available, provide the last known telephone number of last known address of such person.

- Literally tens, if not hundreds, of thousands of people have worked for VPA during the relevant time period. If interpreted literally, this question could require a long list of names that would be difficult to obtain, and unlikely to be fully correct. Below are the names of individuals that VPA has identified as having (or having had) the type of information pertinent to the request. Included with the names is a brief discussion of the type of knowledge the person appears to possess.

**William Beatty – Manager Real Estate Operations Philadelphia Area - Deceased**  
**Frank Thomas – Manager Real Estate Philadelphia Area - Deceased**  
**Peter Carr – Purchasing Agent Real Estate Philadelphia Area – Deceased**  
**William Wilson – Director Real Estate Operations Philadelphia Area - Deceased**

**Don Nelson – Manger Real Estate Operations Philadelphia Area – Retired in 1992 with over 30 years of service. Currently living in [REDACTED] Mr. Nelson recalls obtaining contracts with the assistance of Peter Carr for trash removal but does not recall the specific companies used. He stated that each manager for various regions of the city would obtain bids from trash companies each year or as necessary and use the two or three lowest bidders.**

**Nate Weeks [REDACTED] – Asst. Manager Real Estate Operations Philadelphia worked in the Philadelphia area for VPA in various capacities since 1960. Currently working as a contractor to VPA. Mr. Weeks stated that he only worked in the dispatch department of the Building Operations Control Center for one year and then as an Inspector for the Real Estate Department. He did not recognize any of the names listed by the EPA for this request and confirmed Mr. Nelson's recollection that trash contracts were picked by the various Real Estate Managers.**

**Vince Sylvestri [REDACTED] – Asst. Manager Real Estate Operations Philadelphia area with over 30 years of service. Mr. Sylvestri recalls working in the Real Estate Department in 1976 as a Building Mechanic but none of the names listed in this inquiry were familiar to him. He confirmed that Real Estate Operations obtained contracts for trash removal in each of the various districts of Philadelphia. And the lowest bidders were usually used until the next contract renewal. He did recall using a company known as Quickway for trash removal during the early 1980's at the former**

headquarters building located at 1835 Arch Street but stated that only office trash was picked up.

Kathy Nichols [REDACTED] – Manager Bill Payment Center Philadelphia. Ms. Nichols was contacted for payment records regarding the entities listed in this request. She responded that the record retention policy for bills was seven years and any billing information regarding these companies would not be available

William Riley [REDACTED] – Manager Purchasing Department Philadelphia with over 30 years of service. Mr. Riley stated that the Purchasing department was not established until 1982 and that prior to its creation individual managers in Real Estate obtained contracts as necessary for building services.

Robert Stephens [REDACTED] – Asst. Manager Real Estate with 30 years of service has worked for the Real Estate Department since 1972. He did not recognize any of the names listed on this inquiry but did confirm that Peter Carr was a Purchasing Agent for Real Estate during the 1970's.

Kenneth Harris [REDACTED] Supervisor Fleet Operations – has been in the Fleet Operation Philadelphia area group since 1994. Prior to that he had various jobs in over 23 years with Verizon. Mr. Harris stated that all vehicle wastes are either recycled via the Material Reclamation Centers or exchanged for new items. Other materials such as Antifreeze was recycled by Planet Earth Recycling while used motor oil and materials from Parts Washers are taken by Safety Kleen for recycling. Mr. Harris indicated that all regular trash was placed in dumpsters on site which are provided via Real Estate contracts. Of the sites on the attached list only 100 East Armat Street in Philadelphia currently has a motor vehicle garage. (Copies of Safety Kleen, Planet Earth and Hazelton Oil Contracts are attached.)

Larry Momorella [REDACTED] Manager Real Estate with Property Management Group agreed with other responders that various companies have been used by Verizon for trash disposal but that currently either Waste Management or Browning Ferris Industries are used in the Philadelphia area. (Copy of Waste Management Contract attached)

Since VPA has not been provided with the identity of the individual that has tied VPA to this site, VPA asserts that the above names and contact information is confidential and should not be provided to any parties outside of EPA. If VPA is allowed access to the individual that has reported a relationship between VPA and the site, VPA would be willing to withdraw this claim of confidentiality.

4. Identify the owners and operators of your establishment(s) in the Philadelphia, Pennsylvania area from 1958 to the present. For each owner and operator further provide:
  - a. The dates of their operation;

- b. The nature of their operation; and
- c. All information or documents relating to the handling and/or generation, storage, treatment, recycling, formulation, disposal, or transportation of any hazardous substance, hazardous waste, pollutant, contaminant, or other waste during the period in which they were operating the establishment(s).

**VPA has numerous facilities throughout the state. Based upon the nexus information it appears that the relevant facilities all lie in Philadelphia. Therefore this response is limited to Philadelphia, although it is doubtful that all would have sent wastes to the supplier who purportedly brought wastes to the site. Other facilities throughout the state would be of the same type as those listed below.**

**Waste Vendors for the facilities unless indicated below were:**

**General Building Trash:**

**Waste Management Inc – January 2000 to Present**

**USA Waste of Philadelphia-February 1996 to January 2000**

**Motor Vehicle waste including parts washer fluid and Waste Motor Oil**

**Safety Kleen**

**Hazleton Oil Salvage LTD**

**Waste Antifreeze**

**Planet Earth Recycling**

GLC	Facility name & address	Nature of Operation	Waste Info.	Own/Lease date
11040	Headquarters Building (sold) One Parkway Philadelphia, PA	Administrative Office	Admin Refuse TriState Hauling 1 2/1/76	Owned Sold 1996
11310	Locust Central Office 1632 Arch St. Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76-	Owned Built 1922
11390	Downtown General Office 1835 Arch St Philadelphia, PA	Administrative Office	Admin Refuse TriState Hauling 2/1/76 Quickway	Owned Sold 1997
11559	Bell Atlantic Tower 1717 Arch Street Philadelphia, PA	Administrative Office	Admin Refuse	Leased Start 1990
11574	Center City Metro Group 1429 Walnut St., Flr 3 Philadelphia, PA	Admin/Data center	Admin Refuse	Leased Start 1987

<sup>1</sup> It should be noted that the information relating to TriState Hauling is based solely upon the documents supplied to VPA by EPA with its request for information. VPA has no independent information indicating that this company picked-up any trash from these facilities

Verizon Pennsylvania, Inc  
Lower Darby Creek Area Superfund Site  
CONFIDENTIAL INFORMATION

GLC	Facility name & address	Nature of Operation	Waste Info.	Own/Lease date
12060	South District WC2 1851 S 34TH St Philadelphia, PA	Work Center	WC Refuse	Owned Built 1974
12070	South District WC 17 E. Oregon Ave Philadelphia, PA	Work Center	WC Refuse	Owned Built 1973
12100	Saratoga Central Office 5400 Woodland Ave Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1921
12110	Eastwick Central Office 3400 Island Ave Philadelphia, PA	Central Office Telecom Switching	CO Refuse	Owned Built 1971
12170	Dewey Central Office 2000 S Broad St Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1932
13020	Hanson St WC 230 S Hanson St Philadelphia, PA	Work Center	WC Refuse	Owned
13030	Trinity Central Office 5160 Lancaster Ave Philadelphia, PA	Central Office Telecom Switching	CO Refuse	Owned Built 1921
13080	Sherwood central Office 5650 Chestnut St Philadelphia, PA	Central Office Telecom Switching	CO Refuse	Owned Built 1921
13090	Evergreen Central Office 3810 Chestnut Street Philadelphia, PA	Central Office Telecom Switching	CO Refuse	Owned Built 1924
13240	West Philadelphia WC 4860 Jefferson Avenue Philadelphia, PA	Work Center	WC Refuse	Owned Built 1998
14010	Chestnut Hill Central Office 8318 Germantown Road Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1921
14020	Germantown Central Office 26 W Cheltenham Ave Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1921
14070	Ivyridge central Office 4332 Terrace St Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1955
14130	Northwest WC 100 E Armat St Philadelphia, PA	Work Center	WC Refuse	Owned Built 1977
14340	Baldwin central office 3429 NORTH 17TH ST Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1928
16060	Public Ledger Building 600 Chestnut St. Philadelphia, PA	Administrative Office	Admin Refuse	Leased Term 1991
16200	Market Central Office 900 Race St Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1933



Verizon Pennsylvania, Inc  
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GLC	Facility name & address	Nature of Operation	Waste Info.	Own/Lease date
16239	I&M Locker Room 1315 Walnut St, Ste1300 Philadelphia, PA	Work Center	WC Refuse	Leased Start 1997
16295	Spring Garden WC 200 W Spring Garden St Philadelphia, PA	Work Center	WC Refuse	Leased Start 1976
16600	Pennypacker Central Office 423 S 17 <sup>th</sup> St Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1925
16690	East District WC 444 N American St Philadelphia, PA	Work Center	WC Refuse	Leased Start 1987
16780	Center City WC 479 N 3 <sup>rd</sup> St Philadelphia, PA	Work Center	WC Refuse	Owned Built 1977
17002	Byberry Road WC 2033 Byberry Rd Philadelphia, PA	Work Center	WC Refuse TriState Hauling 2/1/76	Owned Built 1963
17003	Northeast WC 8382 State Road Philadelphia, PA	Work Center	WC Refuse	Leased Start 1974
17007	Neptune Central Office 11016 Knights Road Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1961
17012	Orchard Central Office 2210 Lott Ave Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1948
17022	Philadephia Customer Service 2180 Hornig Rd Philadelphia, PA	Administrative Office	Admin Refuse	Leased Term 1996
17030	Oakley Street WC 7245 Oakley St Philadelphia, PA	Work Center	WC Refuse	Leased Start 1951
17100 17170	Davenport Central Office 1&2 4900-18 N Broad St Philadelphia, PA	Central Office Telecom Switching	CO Refuse	Owned Built 1921 Built 1975
17110	Waverly Central Office 6468 N Broad St Philadelphia, PA	Central Office Telecom Switching	CO Refuse	Owned Built 1925
17120	Pilgrim Central Office 7254 Rising Sun Ave Philadelphia, PA	Central Office Telecom Switching	CO Refuse	Owned Built 1924
17190	District Office 1347 W Cheltenham Ave Philadelphia, PA	Administrative Office	Admin Refuse	Leased Start 1994
19008	Jefferson Central Office 4808 Leiper St Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1923
19014	Mayfair Central Office 7180 Charles St. Philadelphia, PA	Central Office Telecom Switching	CO Refuse TriState Hauling 2/1/76	Owned Built 1937

Verizon Pennsylvania, Inc  
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CONFIDENTIAL INFORMATION

GLC	Facility name & address	Nature of Operation	Waste Info.	Own/Lease date
19040	Regent Central Office 2514 Emerald St Philadelphia, PA	Central Office Telecom Switching	CO Refuse	Owned Built 1923
19070	North District WC 160 West Erie Ave. Philadelphia, PA	Work Center	WC Refuse	Owned Built 1977
19080	Corporate Computer Center 1101 Montgomery Ave Philadelphia, PA	Admin/Data center	Admin Refuse	Owned Sold 1997
19100	Poplar Central Office 1601 Jefferson St. Philadelphia, PA	Central Office Telecom Switching	CO refuse	Owned Built 1925
19106	Metro WC 6800 Rising sun Ave Philadelphia, PA	Work Center	WC Refuse	Leased Term 1996
19278	Network WC 1522 E. Wingohocken St Philadelphia, PA	Work Center	WC Refuse	Leased Start 1997
	256 Washington Lane	Work Center	Tri-State Hauling 2/1/76	Leased terminated > 20 years
19001	4744 Oxford Ave.	Administrative Office	Tri-State Hauling 2/1/76	Owned Sold 1983
19002	5800 Bustleton Ave.	Work Center	Tri-State Hauling 2/1/76	Leased space
	22 <sup>nd</sup> & Race St.	Work Center	Tri-State Hauling 2/1/76	Owned Sold 1980
	1710 Wood St.	Work Center	Tri-State Hauling 2/1/76	Owned Sold early 70's
	205 Race	Administrative Office	Tri-State Hauling 2/1/76	Leased Terminated 1974

CO Refuse  
Central Offices

Operation

These facilities are used to house switching units providing telephone service to the general public. These units allow for the interconnection of local and trunk lines to permit the completion of telephone calls. Manufacturing, processing, research and development are not performed.

<u>Wastes</u>	<u>1957-81 Disposal</u>	<u>Procedure</u>
Clerical Operations:		
1. Office computer paper	Trash	Dumpster - private disposal
2. Stationary supplies	Trash	Dumpster - private disposal
3. Domestic rubbish	Trash	Dumpster - private disposal
Technical Operations:		
1. Scrap wire (copper)	Recycle	Salvage - metal reclaimer
2. Wire stripping(insulation)	Trash	Dumpster - private disposal
3. Cardboard/paper packaging	Trash	Dumpster - private disposal
4. Retired telephone equipt.	Recycle	Salvage - metal reclaimer
5. Central Office Batteries	Recycle	Salvage - battery manfr.
Maintenance Operations:		
1. Refrigerant containers <sup>3</sup>	Trash	Dumpster - private disposal
2. Cooling system drainwater	Sewer	Municipal sewer/septic tank
3. Boiler blowdown water	Sewer	Municipal sewer/septic tank
4. Maintenance supplies (waxes, cleaners etc.) <sup>4</sup>	Trash	Dumpster - private disposal
5. Sanitary sewage	Sewer	Municipal sewer/septic tank

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<sup>3</sup> The practice was to use up the refrigerant before disposing of the containers. Therefore, the actual refrigerant product should not have been sent to the site

<sup>4</sup> These are referring to typical cleaning and maintenance supplies similar to those used in a household or office building Practice was that supplies were used and evaporated or included in wastewater It was normal practice to use supplies before discarding empty containers. Therefore the actual cleaning products should not have been sent to the site.

Admin Refuse  
Administrative Offices

Operation

These facilities are used to house general office operations. The offices perform clerical, administrative and technical operations involved in providing telephone service. Manufacturing, processing, research and development are not performed.

<u>Wastes</u>	<u>1957-81 Disposal</u>	<u>Procedure</u>
<b>Clerical Operations:</b>		
1. Office computer paper	Recycle	Salvage – paper recycler
2. Stationary supplies	Trash	Dumpster - private disposal
3. Cardboard/paper packaging	Trash	Dumpster - private disposal
4. Computer/microfish records	Trash	Dumpster - private disposal
5. Domestic rubbish	Trash	Dumpster - private disposal
<b>Maintenance Operations:</b>		
1. Refrigerant containers <sup>5</sup>	Trash	Dumpster - private disposal
2. Boiler blowdown water	Sewer	Municipal sewer/septic tank
3. Maintenance supplies (waxes, cleaners etc.) <sup>6</sup>	Trash	Dumpster - private disposal
4. Sanitary sewage	Sewer	Municipal sewer/septic tank

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<sup>5</sup> See Footnote 3

<sup>6</sup> See Footnote 4

WC Refuse  
Work Centers

Operation

These facilities are used as a dispatch location for telephone vocational employees who provide and maintain telephone services in the immediate geographic area. This work includes the installation and maintenance of subscriber (residential and commercial) telephone systems and the construction of telephone plant required to provide that service, including placement of telephone poles, cables and the splicing required to connect them. The motor vehicles utilized by these employees are garaged and maintained on site. Manufacturing, processing, research and development activities are not performed.

<u>Wastes</u>	<u>1957-81 Disposal</u>	<u>Procedure</u>
<b>Clerical Operations:</b>		
1. Office computer paper	Trash	Dumpster - private disposal
2. Stationary supplies	Trash	Dumpster - private disposal
3. Domestic rubbish	Trash	Dumpster - private disposal
<b>Vocational Operations:</b>		
1. Scrap wire (copper)	Recycle	Salvage - metal reclaimer
2. Scrap wire (lead)	Recycle	Salvage - metal reclaimer
3. Wire stripping(insulation) {See question above}	Trash	Dumpster - private disposal
4. Installation fixtures (splice boxes, supports etc)	Trash	Dumpster - private disposal
5. Cardboard/paper packaging	Trash	Dumpster - private disposal
6. Telephone poles <sup>7</sup> private disposal	Trash and Give-Away	Dumpster -
7. Wooden pallets	Trash	Dumpster - private disposal
<b>Motor Vehicles Operations:</b>		
1. Motor/transmission oils	Recycle	Waste oil scavenger
2. Automotive Product	Trash	Dumpster - private disposal

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<sup>7</sup> These poles would primarily consist of small pieces of out-of-service utility poles and some broken poles (Other poles were likely taken by third parties for various uses). Prior case (attached) law involving Verizon New England Inc , formerly known as New England Telephone and Telegraph Company, has established that such materials are not CERCLA wastes. In pertinent part the First Circuit noted: "The district court granted the motion during a hearing on June 11, 1996,(followed by a more extensive opinion issued July 24), ruling that NETT had proffered "uncontradicted expert testimony asserting that NETT did not cause, and, in fact, could not have caused the plaintiffs to incur any 'response costs'" Acushnet Co. v Coaters Inc., 937 F. Supp.988, 922(D. Mass. 1966) ... Specifically, the district court stated that this scientific evidence showed that the creosote-treated pole butts could not have leached PAHs into the soil in an amount greater than pre-existing background PAH levels "

(wax, cleaners, etc) <sup>8</sup>		
3. Parts cleaners	Recycle	Add to waste oil
4. Auto/truck batteries	Recycle	Salvage - battery supplier
5. Auto/truck tires	Trash	Dumpster - private disposal
6. Tank bottoms	Recycle	Tank cleaning contractor

**Maintenance Operations:**

1. Boiler blowdown water	Sewer	Municipal sewer/septic tank
2. Maintenance supplies (waxes, cleaners etc.) <sup>9</sup>	Trash	Dumpster - private disposal
3. Sanitary sewage	Sewer	Municipal sewer/septic tank

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<sup>8</sup> It was typical practice to use up these products and to only place empty containers in the trash

<sup>9</sup> See Footnote 4

4. Describe the types of documents generated or maintained by your establishment(s) in the Philadelphia, Pennsylvania area concerning the handling and/or generation, storage, treatment, transportation, recycling, formulation, or disposal of any hazardous substance, hazardous waste, pollutant, contaminant or other waste between 1958 and 1976.
  - a. Provide a description of the information included in each type of document and identify the person who was/is the custodian of the documents;  
**Not available beyond Record Retention Policy Limit of 7 years (see attached policy)**
  - b. Describe any permits or permit applications and any correspondence between your company and/or establishment(s), and any regulatory agencies regarding the transportation and disposal of such wastes; and  
**NOT APPLICABLE**
  - c. Describe any contracts or correspondence between your company and/or establishment(s) and any other company or entity regarding the transportation and disposal of such wastes.  
**NOT APPLICABLE**
5. Identify every hazardous substance used, generated, purchased, stored, or otherwise handled at your establishment(s) in the Philadelphia, Pennsylvania area between 1958 and 1976. Provide chemical analyses and Material Safety Data Sheets ("MSDS"). With respect to each such hazardous substance, further identify:

**VPA is not a manufacturer and does not generate, treat, or process any raw materials. VPA does not conduct manufacturing or process activities. However, even the limited garage and central office activities involve use of a variety of compounds. It is extremely difficult, if at all possible, to identify specific compounds used at VPA facilities during the relevant time period. VPA maintains several repositories containing MSDS's used at various locations throughout VPA's service area. It should be noted that many of these products are household type products and that these products do not all contain toxic or hazardous components. VPA would be pleased to make these MSDS's available for inspection and copying by EPA.**

**The primary hazardous material that may be used and/or stored at Work Centers and/or Central Offices is lead sheathed copper cable. This cable is valuable and is in demand by scrap dealers. Therefore this material is sold for recycling. Some central office equipment components contain small amounts of elements containing hazardous materials. These materials have always been sent with the central office equipment for recycling (these units are either sold to third parties or sold for scrap value).**

- a. The process(es) in which each hazardous substance was used, generated, purchased, stored, or otherwise handled;  
**NOT APPLICABLE**
- b. The chemical composition, characteristics, and physical state (solid, liquid, or gas) of each such hazardous substance;

**NOT APPLICABLE**

- c. The annual quantity of each such hazardous substance used, generated, purchased stored, or otherwise handled;

**NOT APPLICABLE**

- d. The beginning and ending dates of the period(s) during which such hazardous substance was used, generated, purchased, stored, or otherwise handled;

**NOT APPLICABLE**



- e. The types and sizes of containers in which these substances were transported and stored; and  
**NOT APPLICABLE**
- f. The persons or companies that supplied each such hazardous substance to your company.  
**NOT APPLICABLE**
- g. Identify all by-products and wastes generated, stored, transported, treated, disposed of, released, or otherwise handled by your establishment(s) in the Philadelphia, Pennsylvania area between 1958 and 1976. With respect to each such by-product and waste identified, further provide:

**VPA is not a manufacturer and does not generate, treat, or process any raw materials. VPA does not conduct manufacturing or process activities. However, even the limited garage and central office activities involve use of a variety of compounds. It is extremely difficult, if at all possible, to identify specific compounds used at VPA facilities during the relevant time period.**

- a. The process(es) in which each such by-product and waste was generated, stored, transported, treated, disposed of, released, or otherwise handled;  
**NOT APPLICABLE**
  - b. The chemical composition, characteristics, and physical state (solid, liquid, or gas) of each such by-product or waste;  
**NOT APPLICABLE**
  - c. The annual quantities of each such by-product and waste generated, stored, transported, treated, disposed of, released, or otherwise handled;  
**NOT APPLICABLE**
  - d. The types, sizes, and numbers of containers used to treat, store, or dispose of each such by-product or waste;  
**NOT APPLICABLE**
  - e. The name of the individual(s) and/or company(ies) that disposed of or treated each such by-product or waste; and  
**NOT APPLICABLE**
  - f. The location and method of treatment and/or disposal of each such by-product or waste.  
**NOT APPLICABLE**
6. Did Verizon Communications ever contract with, or make arrangements with any of the following entities, for the removal or disposal of waste from your facilities/establishments in the Philadelphia area between 1958 and 1976:
- a. Folcroft Landfill Corporation;
  - b. Bernie McNichol;
  - c. Edward Mullin;
  - d. Clearview Land Development Corporation;
  - e. Edward or Richard Heller;
  - f. Tri-County Hauling;

- g. Eastern Industrial Corporation,
- h. Marvin Jonas or Jonas Waste Removal;
- i. Bernard McHugh or McHugh Trash Company;]
- j. S. Buckly (ey) Trash Hauling;
- k. City Wide Services, Inc. '
- l. Gene Banta of Gene Banta Trash Removal;
- m. Schiavo Brothers;
- n. Charles Crumley or Crumley Waste;
- o. Harman or Harway Trash;
- p. Oil Tank Lines;
- q. Paolino Company;
- r. Charles Crawley Waste Hauling;
- s. Ed Lafferty and Son;
- t. Bazzarie Trash Company;
- u. Sparky Barnhouse or ABM Disposal Services Company; and
- v. Any other individual, company, or municipality.

**VPA conducted an exhaustive search for any documents that mention the above listed entities. The search included Verizon's Environmental, Purchasing, Fleet Operations and Property Management Organizations since these departments would be the organizations most likely to have records of a relationship with waste haulers, recyclers or similar parties. No records were found that mentioned or related to any business dealings with the aforementioned entities.**

7. For each of the above identified entities with whom Verizon Communications contracted or made arrangements with for waste removal and/or disposal, please identify the following:
- a. The person with whom you made such a contract or arrangement,  
**No Documents available for the relevant time period.**
  - b. The date(s) on which or time period during which such material was removed or transported for disposal;  
**No Documents available for the relevant time period.**
  - c. The nature of such material, including the chemical content, characteristics, and physical state (i.e., liquid, solid, or gas);  
**No Documents available for the relevant time period.**
  - d. The annual quantity (number of loads, gallons, drums) of such material,  
**No Documents available for the relevant time period.**
  - e. The manner in which such material was containerized for shipment or disposal;  
**No Documents available for the relevant time period.**
  - f. The location to which such material was transported for disposal,  
**No Documents available for the relevant time period.**
  - g. The person(s) who selected the location to which such material was transported for disposal;  
**No Documents available for the relevant time period.**
  - h. The individual employed with any transporter identified (including truck drivers, dispatchers, managers, etc.) with whom your establishment dealt concerning removal

- or transportation of such material; and  
**No Documents available for the relevant time period.**
  - i. Any billing information and documents (invoices, trip tickets, manifests, etc.) in your possession regarding arrangements made to remove or transport such material.  
**No Documents available for the relevant time period.**
- 8. Provide the names, titles, areas of responsibility, addresses, and telephone numbers of all persons who, between 1958 and 1976, may have:
  - a. Disposed of or treated materials at Clearview, Folcroft and Folcroft Annex or other areas of the Site;  
**NOT APPLICABLE**
  - b. Arranged for the disposal or treatment, of materials at Clearview, Folcroft and Folcroft Annex or other areas of the Site; and/or  
**NOT APPLICABLE**
  - c. Arranged for the transportation of materials to Clearview, Folcroft and Folcroft Annex or other areas of the Site (either directly or through transshipment points) for disposal or treatment.  
**NOT APPLICABLE**
- 9. For every instance in which your establishment(s) disposed of or treated material at Clearview, Folcroft and Folcroft Annex or other areas of the Site, or arranged for the disposal or treatment of material at the Site, identify:
  - a. The date(s) on which such material was disposed of or treated at the Site;  
**NOT APPLICABLE**
  - b. The nature of such material, including the chemical content, characteristics, and physical state (i.e., liquid, solid, or gas);  
**NOT APPLICABLE**
  - c. The annual quantity (number of loads, gallons, drums) of such material;  
**NOT APPLICABLE**
  - d. The specific location on the Site where such material was disposed of or treated, and  
**NOT APPLICABLE**
  - e. Any billing information and documents (invoices, trip tickets, manifests, etc.) in your company's or establishment's (s') possession regarding arrangements made to dispose of or treat such material at the Site  
**NOT APPLICABLE**
- 10. Did your establishment(s), or any other company or individual ever spill or cause a release of any chemicals, hazardous substances, and/or hazardous waste, and/or non-hazardous solid waste on any portion of Clearview, Folcroft and Folcroft Annex or any other portion of the Site? If so, identify the following:
  - a. The date(s) the spill(s)/release(s) occurred;  
**VPA has no record or knowledge of every having spilled or caused a release of any chemicals at the site.**
  - b. The composition (i.e., chemical analysis) of the materials which were spilled/released;  
**NOT APPLICABLE**
  - c. The response made by you or on your behalf with respect to the spill(s)/release(s); and

**NOT APPLICABLE**

- d. The packaging, transportation, and final disposition of the materials which were spilled/released.

**NOT APPLICABLE**

11. Please identify individuals employed by your establishment(s) who were responsible for arranging for the removal and disposal of wastes, and individuals who were responsible for payments, payment approvals, and record keeping concerning such waste removal transactions at your Philadelphia, Pennsylvania area establishment(s) between 1958 and 1976. Provide current or last known addresses and telephone numbers where they may be reached. If these individuals are the same persons identified by your answer to question #3, so indicate.

**See response Question 3**

12. Did you or any person or entity on your behalf ever conduct any environmental assessments or investigations relating to contamination at Clearview, Folcroft and Folcroft Annex or any other areas of the Site? If so, please provide all documents pertaining to such assessments or investigations.

**No environmental assessment or investigations relating to contamination at the site was performed by VPA.**

13. If you have any information about other parties who may have information which may assist the EPA in its investigation of the Site, including Clearview, Folcroft and Folcroft Annex, or who may be responsible for the generation of, transportation to, or release of contamination at the Site, please provide such information. The information you provide in response to this request should include the party's name, address, telephone number, type of business, and the reasons why you believe the party may have contributed to the contamination at the Site or may have information regarding the Site.

**VPA has not such information**

14. Representative of your establishment(s):

- a. Identify the person(s) answering these questions on behalf of your establishment(s), including full name, mailing address, business telephone number, and relationship to the company.

**Michael Galenski  
Manager - Environment Management  
966 W Matlack St.  
West Chester, PA, 19380  
610 431-5903;**

**David Forti  
Regional Director-Environment Management  
650 Park Ave.  
East Orange, NJ 07017  
973-266-9053**


- b. Provide the name, title, current address, and telephone number of the individual representing your establishment(s) to whom future correspondence or telephone calls should be directed.  
**David Feldman, Esq.**  
**Environmental Counsel**  
**1095 Ave. of Americas, Room 3806**  
**New York, NY 10036**  
**Phone: 212-395-6362.**
15. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:
- a. Your document retention policy;  
**Document Retention Policy is attached**
  - b. A description of how the records were/are destroyed (burned, archived, trashed, etc.) and the approximate date of destruction;  
**Document Retention Policy is attached**
  - c. A description of the type of information that would have been contained in the documents; and
  - d. The name, job title, and most current address known to you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and the person(s) who would have been responsible for the destruction of these documents.

**Many of the documents the EPA requested are no longer available. This is consistent with Verizon's document retention Policy.**

## DECLARATION

On behalf of VPA, I have read the responses to the EPA's request contained in this letter. The responses were prepared by or with the assistance of agents, employees and/or representatives of VPA or others believed to have relevant information and with the assistance of Counsel. The responses set forth herein, subject to inadvertent or undiscovered errors or omissions, are based on and therefore necessarily limited by the records and information still in existence, recently recollect, thus far discovered in the course of the preparation of these responses, and currently available to VPA. VPA reserves the right to make any changes in or additions to any of the responses if it appears that at any time errors or omissions have been made therein or that more accurate or complete information becomes available. My declaration below is subject to this paragraph. I declare under penalty of perjury that I am authorized to respond on behalf of Verizon Pennsylvania, Inc. and that to the best of my knowledge and belief the foregoing is complete, true and correct.

Executed on Sept 12, 2002



Name: Jacquie McCormick  
Title: Director- Environmental Affairs.  
Verizon Network Services, Inc.  
700 Hidden Ridge, Irving, TX 75038  
972-718-6032

Dated: 9/12/02

## **Attachment A**



# Corporate Policy Statement

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**Policy No.: CPS-130**

**Issued: August 4, 1999 Revised: October 27, 1999**

**Subject: Records Management**

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- OBJECTIVE
  - SCOPE
  - POLICY
  - DEFINITIONS
  - PROCESS
    - I. Records Life Cycle
    - II. Special Requirements for Electronic Records
    - III. Messaging - Voice Mail and Electronic Mail
    - IV. Legal Department Suspension of Normal Records Destruction
    - V. The Role of the Departmental Records Coordinator
  - RESPONSIBILITY
  - RECOMMENDED
  - APPROVED
- 

## OBJECTIVE

To define the policies and practices governing the life cycle management of records within Bell Atlantic Corporation and its subsidiaries.

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## SCOPE

This policy applies to Bell Atlantic Corporation and all of its subsidiaries (the "Company"). This policy supersedes all prior versions of CPS-130 and General Instruction No. 68 in the Bell Atlantic-North Companies.

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## POLICY

Records are corporate assets, critical to meeting the Company's financial, legal, and management obligations. All employees are responsible for creating, using, storing, and disposing of records in accordance with all appropriate laws and regulations while meeting the needs of the business. The Corporate Retention Schedule is available on the Corporate Wide Web, in the BAIMS Repository, and specifies our policy for retention and destruction of documents created and acquired by employees in the course of business.

Records created in the course of business are the property of the Company. There is no such thing as a "personal copy" of a record. Employees may not keep a copy of a record after the retention period has expired and the official file copy has been destroyed.

In addition, all employees are responsible for prudent recordkeeping practices and must meet the standards for corporate records specified in the Code of Business Conduct.



## DEFINITIONS

The following terms and definitions are used throughout this Corporate Policy Statement and the Company's Record Retention Schedules:

**Record** - a record is defined as any recorded information regardless of form. Records can exist in hard copy as paper documents, photographs and microfilm; and in electronic format as audio and videotape, and electronic documents and files on work station hard drives, servers, diskettes, etc. Examples of records include: memos and correspondence, reports, word processing and spreadsheet files, fax messages, e-mail and voice mail messages, electronic images, completed forms, dictation tapes, computer printouts, drawings, etc.

**Document** - within this Corporate Policy Statement, "document" and "record" are interchangeable.

**Official record** - the only record copy which needs to be retained in accordance with the retention schedule. Also known as the "official file copy" or "record copy", this is the complete, final version of a document that is retained for legal, operational, or historic purposes. All other copies are duplicates, held for reference or convenience, and may be destroyed at any time, but not later than the scheduled destruction date for the official record.

The official record is usually the original document, but an exact duplicate can be substituted for the original if that copy is lost or not available.

**Nonessential Record / Transitory Record** - Records with little or no business value after their initial use. Routine correspondence, short term messages ("Let's go to lunch"), telephone call messages, etc. These records can and should be deleted/discarded as soon as possible.

**Non-record material** - Records not usually included in the scope of official records. Examples include blank forms, publicly available reference material, and unsolicited promotional material.

**Electronic record** - a record which contains "machine readable" rather than "human readable" information.

**Vital record** - a record that must be available following a disaster to reestablish or continue Company operations or preserve the legal rights of the Company, its employees, customers, and stockholders.

**Document Life Cycle** - the five stages of document functionality: creation or acquisition, distribution, use, maintenance (or storage), and disposition. The records requirements of documents and document systems must be cared for during the planning phase of all document projects.

**Record Custodian** - the individual or group entrusted with the care and protection of official records their possession.

**Office of Record** - the group designated to maintain the official records of an organization until final disposition.

**Retention schedule** - a listing of documents or records specifying the length of time each record type needs to be retained and when each is scheduled for destruction.

**Records Center** - a secure storage facility designed for long term document storage generally for semi-active and inactive records. Specialized records centers, called **Data Protection Centers**, are designed to house magnetic media and other computer-based records under special environmental conditions.

**Records Management** - the systematic control of all records from the time they are created, or received, through their processing, distribution, organization, storage, and retrieval to their ultimate disposition.

## PROCESS

As the Company changes, so do its records. New business ventures often mean new documents are created and maintained. Many documents lose their value as processes change, laws are modified and new regulation is introduced. For these reasons, our records practices need to be reviewed on a regular basis.

Records pass through our hands and computers every day. Some are transitory documents with no business value, and are considered nonessential records. These records can and should be deleted/discarded as soon as possible. Other documents are important records, the official copy of which must be held for a specific period of time.

The Corporate Retention Schedule lists all records created and received by employees that are required to be retained for some period. The listing classifies each record and specifies the length of time required for retention. The Corporate Retention Schedule, developed with the assistance of departmental Records Coordinators, is the cornerstone of the Records Management Program, and may be modified as required.

When the Schedule specifies retention, it refers to how long the *official record copy* of a document needs to be kept- not all of the duplicate copies. It's important to designate a single copy (usually the original document) as the official record so that it can be filed properly and protected from loss and damage. This is the responsibility of the Office of Record- the group which ensures that the official record can be located throughout the entire retention period.

The Office of Record may be the creator/author of a record or the recipient of a record created outside of the Company (such as a customer letter). In addition, the Office of Record may be the group responsible for the work process involving the record. While many employees may use or contribute to a record, only the Office of Record maintains the official record copy. Some examples:

<u>Record Type</u>	<u>Office of Record</u>
Bills and Vouchers	Accounts Payable
Building Leases	Real Estate
Grievance reports	Labor Relations
Supplier Contracts	Corporate Sourcing

Please note that for official records maintained in electronic format, there should be a *security* or *back up* copy in addition to the official file copy. Security copies should be maintained for the life of the official record and destroyed at the same time as the official copy.

### I. Records Life Cycle

Every record has a five-stage life cycle which takes it from creation through to its final disposition. The five stages are:

1. Creation/Acquisition
2. Distribution
3. Use
4. Maintenance/Storage
5. Disposition

Employees need to recognize their responsibilities for records at each of the five stages, especially when they become "custodians" of official documents.

Custodians can be:

- o Employees who create/author records (examples include methods and procedures, contracts, engineering drawings).
- o Employees who receive documents from outside sources (examples include letters from

vendors, customer complaints).

- o Employees who process or compile original records (examples include personnel files, time sheets).
- o Employees who maintain reference "file rooms" or "central files" for an organization (such as central files of current contracts or building leases).
- o Employees who conduct office file reviews to select records for off-site storage or destruction.

Throughout a record's life cycle, the custodian is likely to change. For example, an employee incurring expense on behalf of the Company, is the custodian of receipts and corporate card invoices until a voucher form is completed and sent with the accompanying documentation to the supervisor for approval. The supervisor, and anyone who processes the record along the way, becomes a temporary custodian until the record is sent to Accounts Payable for final processing. Accounts Payable is now the custodian and "Office of Record", responsible for knowing where this and all other processed vouchers can be located for the remainder of their retention period.

The "Office of Record" is responsible for the care of the official file copy of a record. If the record copy is kept in an office location, a sound filing and indexing system should enable access to needed documents whether paper or electronic. Working with the departmental Records Coordinator, the Office of Record maintains an index of all records under its care. The index should list both office and off-site records locations, along with pertinent information such as bar-code, carton number, or other reference number.

At each stage, custodians are responsible to safeguard records from loss, theft, unauthorized disclosure, and accidental destruction. In addition, sensitive, confidential or proprietary records (see CPS 240, "Intellectual Property") must be protected at all times, and maintained in locked cabinets or other secure environments. Just as employees would report stolen property, missing records and suspicious incidents involving records should be referred to the Security Department.

Records become inactive when they are no longer needed for frequent reference. Generally, reference activity decreases as the record ages. Active records should be kept close at hand for quick access, but inactive records should either be destroyed in accordance with the Retention Schedule or sent to a Records Center for the remainder of the retention period. The Corporate Retention Schedule provides guidance on office and off-site storage periods. Off-site storage is less expensive than office storage when there is infrequent need to retrieve the record.

If off-site storage is required, the Office of Record is responsible for preparing records and packing them in standard storage containers. A complete, accurate index of stored records is essential.

Some records are classified as "permanent" or "indefinite retention" records. These records are kept indefinitely or until the retention period changes to a specified time. Most records, however, are not permanent, and must be destroyed in accordance with the Corporate Retention Schedule.

Destruction must be complete and include all copies of a record. In addition, care must be taken to protect private or proprietary information from disclosure due to improper disposal. These documents must be rendered unreadable before disposing or recycling.

## **II. Special Requirements for Electronic Records**

Retention periods for electronic records are the same as for their paper counterparts, as defined by the Corporate Retention Schedule, but electronic records require special care in terms of protection, preservation, and destruction. There should always be a "back up" or "security" copy of an electronic record. This copy should be kept at a distance from the original or "working" copy and stored under proper conditions for the storage medium.

Electronic records require protection from hardware and software obsolescence. Records which have lengthy retention periods (more than five years) may need to be converted to newer formats and storage media in order to ensure that they can be read throughout the retention period. In addition, the archival nature of the storage medium needs to be considered when storing an electronic record for longer periods of time. A schedule for recopying should be developed if necessary.

Electronic records can be stored offsite in a special Records Center called a Data Protection Center.

This type of facility is designed to provide secure storage under specified environmental conditions such as temperature and humidity controls. Employees who are custodians of disaster recovery back up tapes and other electronic vital records must ensure that these records are properly stored.

Destruction of electronic records must ensure that all copies are deleted in accordance with the retention schedule. This includes security copies, word processing files, paper printouts, etc. The index of records should list all copies and their locations so that each one can be destroyed.

There are additional security concerns for electronic records. Refer to CPI 810 , entitled "Computer, Network and Information Security – Instructions", for additional information.

The Records Management organization is available to provide assistance for electronic records questions.

### **III. Messaging - Voice Mail and Electronic Mail**

Electronic messages (e-mail and voice mail) must be created with the same care as paper correspondence. Employees should check messages for grammar and spelling, and send messages only to recipients who have a business need for the information.

Messaging systems are provided as tools for conducting Company business. All messages are Company property and subject to monitoring. The Code of Business Conduct provides guidelines for the appropriate use of messaging systems.

#### **Electronic Mail-**

Just like paper correspondence, electronic messages may have retention requirements. While most e-mail messages are nonessential records, the content of some messages may constitute official records that must be retained in accordance with the Corporate Retention Schedule.

E-mail messages will be automatically deleted from systems after 60 days. It is the responsibility of the employee to take the necessary steps to retain messages which meet the criteria for official records before any automatic deletion takes place.

To determine if an e-mail message is an official record that must be retained in accordance with the Corporate Retention Schedule, employees should use the same evaluation process with electronic messages as they do for other correspondence. For example:

- o Does the content of this message and any attachments constitute an official record with retention requirements? (if no, delete when no longer needed)
- o If yes, am I the Office of Record (i.e. creator/author or primary recipient) for this message? (If no, you have a duplicate copy and may delete any time prior to the official retention period)
- o If yes, what is the retention period according to the Corporate Retention Schedule?
- o How will the message be preserved for its entire retention period? (file a paper printout, migrate from e-mail for storage on another platform, etc.)

#### **Voice Mail-**

Most voice mail messages are non-records or nonessential records and do not need to be retained. In rare situations, the message may constitute an official record. In these cases, voice mail must be transcribed or otherwise retained in accordance with the Corporate Retention Schedule before automatic deletion takes place. The transcription should capture "envelope information"- date and time, telephone number, sender name, etc.

### **IV. Legal Department Suspension of Normal Records Destruction**

Under certain circumstances, such as pending litigation or investigations, normal records destruction must cease, and records must be held beyond their retention period. The Legal Department notifies employees when the suspension begins, which records are affected, and when destruction may resume.

## V. The Role Of the Departmental Records Coordinator

Records Coordinators play a crucial role in the Records Management Program. Records Coordinators represent their departments in all records matters, providing guidance to their work groups and information regarding their records to Records Management.

Records Coordinators are appointed by their Department Heads and must attend records training periodically. Records Coordinators must have a full understanding of the records their departments are responsible for, and notify Records Management when changes may affect the Corporate Retention Schedule.

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## RESPONSIBILITY

All employees are responsible for proper document handling and sound recordkeeping practices for the entire document life cycle.

All employees are responsible for adhering to retention and destruction rules set forth in the Corporate Retention Schedule.

The Records Management Organization, a part of Documentation Management Solutions, is responsible for administering the Company's Records Management Program, including developing and communicating the Corporate Retention Schedule, managing off-site records storage, and implementing the Company's electronic records management strategy.

The Vice President or Department Head of each business unit is responsible for compliance with this policy within his or her organization, and for appointing a Records Coordinator to manage the organization's records.

Records Coordinators are responsible for keeping current on their knowledge of their business units' records through initial training and periodic refresher training. Records Coordinators cascade records information to their work groups and resolve records questions with the assistance of Records Management.

The Records Management organization is responsible for the maintenance and communication of this Corporate Policy Statement and is authorized, without further approval, to revise this document due to administrative or organizational changes.

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## RECOMMENDED

<u>Original signed</u>	<u>7/30/99</u>
Lawrence T. Babbio, President and Chief Operating Officer	Date

<u>Original signed</u>	<u>7/30/99</u>
James G. Cullen, President and Chief Operating Officer	Date

<u>Original signed</u>	<u>7/28/99</u>
Jacquelyn B. Gates, Vice President – Ethics, Compliance and Diversity	Date

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## APPROVED

Original signed7/30/99Ivan G. Seidenberg, Chairman and  
Chief Executive Officer

Date

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## **Attachment B**

**Monthly, Per Location, Price Calculations**

Monthly prices are based on the number of containers per location, multiplied by the price per container pick-up (depending on the size container being used), multiplied by the number of pick-ups per week, multiplied by 4.3334 (the average number of weeks in a month).

**Example 1:**

1 container x \$22.00 (per pick-up) = \$22.00 x 3 (pick-ups a week) = \$66.00 x 4.3334 = \$286.00 per month.

**Verification:**

1 container x \$22.00 (per pick-up) = \$22.00 x 3 (pick-ups a week) = \$66.00 x 52 (weeks per year) = \$3,432.00 - 12 (months per year) = \$286.00.

**Example 2:**

2 containers x \$17.00 (per pick-up) = \$34.00 x 5 (pick-ups a week) = \$170.00 x 4.3334 = \$736.68 per month.

**Verification:**

2 containers x \$17.00 (per pick-up) = \$34.00 x 5 (pick-ups a week) = \$170.00 x 52 (weeks per year) = \$8,840.00 - 12 (months per year) = \$736.67.

**Exception:** 1 container pick-up every other week.

1 container x \$22.00 = \$22.00 x 26 (pick-ups per year) = \$572.00 - 12 (months per year) = \$47.67 per month.

**Terms of Payment** for this Agreement shall be NET 30.



**February 1, 1996 to January 30, 1997**

Container prices to use when making additions, deletions or changes to the locations for trash removal: (Please list all available sizes)

<u>1</u>	cu. yd. container	\$ <u>5.65</u> per container pick-up
<u>2</u>	cu. yd. container	\$ <u>8.00</u> per container pick-up
<u>2 O.C.</u>	cu. yd. container	\$ <u>8.62</u> per container pick-up
<u>3</u>	cu. yd. container	\$ <u>12.00</u> per container pick-up
<u>4</u>	cu. yd. container	\$ <u>16.00</u> per container pick-up
<u>6</u>	cu. yd. container	\$ <u>24.00</u> per container pick-up
<u>8</u>	cu. yd. container	\$ <u>32.00</u> per container pick-up
<u>          </u>	cu. yd. container	\$ <u>          </u> per container pick-up
<u>          </u>	cu. yd. container	\$ <u>          </u> per container pick-up
<u>          </u>	cu. yd. container	\$ <u>          </u> per container pick-up
<u>          </u>	cu. yd. container	\$ <u>          </u> per container pick-up

Rolloffs           \$ 120.00 per pickup, \$ 47.00 per ton

Name of Contractor: USA Waste of Philadelphia, Inc.

**February 1, 1997 to January 30, 1998**

Container prices to use when making additions, deletions or changes to the locations for trash removal: (Please list all available sizes)

<u>1</u>	cu. yd. container	\$ <u>5.87</u> per container pick-up
<u>2</u>	cu. yd. container	\$ <u>8.32</u> per container pick-up
<u>2 O.C.</u>	cu. yd. container	\$ <u>8.96</u> per container pick-up
<u>3</u>	cu. yd. container	\$ <u>12.48</u> per container pick-up
<u>4</u>	cu. yd. container	\$ <u>16.64</u> per container pick-up
<u>6</u>	cu. yd. container	\$ <u>24.96</u> per container pick-up
<u>8</u>	cu. yd. container	\$ <u>33.28</u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up

Rolloffs           \$ 120.00 per pickup, \$ 49.00 per ton

Name of Contractor: USA Waste of Philadelphia, Inc.

**February 1, 1998 to January 30, 1999**

Container prices to use when making additions, deletions or changes to the locations for trash removal: (Please list all available sizes)

<u>1</u>	cu. yd. container	\$ <u>6.11</u> per container pick-up
<u>2</u>	cu. yd. container	\$ <u>8.65</u> per container pick-up
<u>2 O.C.</u>	cu. yd. container	\$ <u>9.32</u> per container pick-up
<u>3</u>	cu. yd. container	\$ <u>12.97</u> per container pick-up
<u>4</u>	cu. yd. container	\$ <u>17.30</u> per container pick-up
<u>6</u>	cu. yd. container	\$ <u>25.95</u> per container pick-up
<u>8</u>	cu. yd. container	\$ <u>34.61</u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up

Rolloffs           \$ 125.00 per pickup, \$ 49.00 per ton

Name of Contractor: USA Waste of Philadelphia, Inc.

**February 1, 1999 to January 30, 2000**

Container prices to use when making additions, deletions or changes to the locations for trash removal: (Please list all available sizes)

<u>1</u>	cu. yd. container	\$ <u>6.35</u> per container pick-up
<u>2</u>	cu. yd. container	\$ <u>8.99</u> per container pick-up
<u>2 O.C.</u>	cu. yd. container	\$ <u>9.69</u> per container pick-up
<u>3</u>	cu. yd. container	\$ <u>13.49</u> per container pick-up
<u>4</u>	cu. yd. container	\$ <u>17.99</u> per container pick-up
<u>6</u>	cu. yd. container	\$ <u>26.99</u> per container pick-up
<u>8</u>	cu. yd. container	\$ <u>35.99</u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up
<u>      </u>	cu. yd. container	\$ <u>      </u> per container pick-up

Rolloffs           \$ 130.00 per pickup, \$ 52.00 per ton

Name of Contractor: USA Waste of Philadelphia, Inc.

CONTRACTOR'S NAME: USA Waste of Philadelphia, Inc.

Agreement No. BQ14188

Appendix D

Page 6 of 11

**BUILDINGS PRICE SHEET**

BUCKS County

Building GLC Code and Location	Container Size	Frequency	Price/Month 2/1/96 to 1/31/97	Price/Month 2/1/97 to 1/31/98	Price/Month 2/1/98 to 1/31/99	Price/Month 2/1/99 to 1/31/00
25290 - Doylestown Work Center (Walls) Old Easton & Landisville Rd., Doylestown, PA	40 yd. RO	approx. 5 X mo				
25310 - Trevoise Work Center (Walls) 205 Andrews Avenue, Trevoise, PA	30 yd. RO	approx. 4 X mo				
25680 - Tulleytown C.O. (Walls) 7901 New Falls Road, Levittown, PA	30 yd. RO	approx. 4 X mo				
28137 - Quakertown Work Center rev. (Walls) 590 California Road, Quakertown, PA	20 yd. RO	approx. 4 X mo				

**Revised 3/1/97**

All roll-offs are billed at the rates contained in Pages 2 thru 5 above.

NOTE - All roll-offs are picked up "on call", and frequencies are approximate.

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Not for use or disclosure outside the Bell Atlantic Companies except under written Agreement

**BUILDINGS PRICE SHEET****MONTGOMERY County**

Building GLC Code and Location	Container Size	Frequency	Price/Month 2/1/96 to 1/31/97	Price/Month 2/1/97 to 1/31/98	Price/Month 2/1/98 to 1/31/99	Price/Month 2/1/99 to 1/31/00
21200 - Bryn Mawr Garage (Evans) 909 Lancaster Avenue, Bryn Mawr, PA	30 yd. RO	2 X wk				
22133 - Fleet Operations Center (Moore) 2580 General Armistead Blvd., Norristown, PA	rev. 30 yd. RO	approx. 3 X mo				
22160 - Valley Forge Distribution Center (Moore) 2455 Blvd. of The Generals, Norristown, PA	30 yd. RO	approx. 3 X mo				
22470 - Construction Training (Moore) N. Side Egypt Road, Trooper, PA	20 yd. RO	approx. 1 X mo				
22680 - Norristown Work Center (Moore) 538 Foundry Road, West Norriton Twp., PA	rev. 40 yd. RO	approx. 2 X mo				
22890 - Conshohocken C.O. (Moore) 181 North Lane, Conshohocken, PA	20 yd. RO	approx. 2 X mo				
28002 - Pottstown Pole Lot (Freed) Yost & Moser Roads, Pottstown, PA	30 yd. RO	approx. 1 X mo				
28064 - Line Lexington Work Center (Walls) 1010 Bethlehem Pike, Colmar, PA	40 yd. RO	approx. 5 X mo				
28228 - Reclamation Center (Moore) 106 Park Drive, Montgomeryville, PA	30 yd. RO	approx. 2 X mo				
28228 - Reclamation Center (Moore) 106 Park Drive, Montgomeryville, PA	40 yd. RO*	approx. 2 X mo				

\* Compactor provided by Contractor at this location. Rental charge - \$ 250.00/month

**Revised 8/5/96**

All roll-offs are billed at the rates contained in Pages 2 thru 5 above.

NOTE - All roll-offs are picked up "on call", and frequencies are approximate.

\*\*\* NOTICE \*\*\*

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**BUILDINGS PRICE SHEET****PHILADELPHIA**

Building GLC Code and Location	Container Size	Frequency	Price/Month 2/1/96 to 1/31/97	Price/Month 2/1/97 to 1/31/98	Price/Month 2/1/98 to 1/31/99	Price/Month 2/1/99 to 1/31/00
11310 - Locust C.O. (Olintz) 1631 Arch Street, Philadelphia, PA	3 ea. - 2 yd.	3 X wk	\$309.60	\$321.98	\$334.86	\$348.25
12060 - Vare Avenue Work Center (Britt) 1851 S. 34th Street, Philadelphia, PA	30 yd. RO	approx. 5 X mo				
12070 - Oregon Avenue Garage (Britt) 17 E. Oregon Avenue, Philadelphia, PA	1 ea. - 2 yd.	3 X wk	\$103.20	\$107.32	\$111.61	\$116.07
12110 - Eastwick C.O. (Britt) 3400 Island Avenue, Philadelphia, PA	1 ea. - 2 yd.	2 X wk	\$68.80	\$71.55	\$74.41	\$77.39
12160 - Eastwick Coin Center (Britt) 3400 Island Avenue, Philadelphia, PA	1 ea. - 2 yd.	2 X wk	\$68.80	\$71.55	\$74.41	\$77.39
12170 - Dewey C.O. (Britt) 2000 S. Broad Street, Philadelphia, PA	1 ea. - 2 yd.	5 X wk	\$172.00	\$178.88	\$186.03	193.47
13030 - Trinity C.O. (Britt) 5160 Lancaster Avenue, Philadelphia, PA	1 ea. - 2 yd.	1 X wk	\$34.40	\$35.77	\$37.20	\$38.68
13080 - Sherwood C.O. (Britt) 5650 Chestnut Street, Philadelphia, PA	1 ea. - 2 yd.	2 X wk	\$68.80	\$71.55	\$74.41	\$77.39
13090 - Evergreen C.O. (Britt) 3810 Chestnut Street, Philadelphia, PA	Bags Inside Bldg.	rev. 2 X wk(T-F)	\$	\$200.00	\$214.00	\$228.98
13240 - I&M Work Center (Britt) 4860 Jefferson Street, Philadelphia, PA	12 yd. RO	approx. 1 X wk				
14010 - Chestnut Hill C.O. (Friebis) 8318 Germantown Avenue, Philadelphia, PA	1 ea. - 2 yd.	1 X wk	\$34.40	\$35.77	\$37.20	\$38.68

Revised 1/1/97

All roll-offs are billed at the rates contained in Pages 2 thru 5 above.

NOTE - All roll-offs are picked up "on call", and frequencies are approximate.

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**BUILDINGS PRICE SHEET**

## PHILADELPHIA (cont'd.)

Building GLC Code and Location	Container Size	Frequency	Price/Month 2/1/96 to 1/31/97	Price/Month 2/1/97 to 1/31/98	Price/Month 2/1/98 to 1/31/99	Price/Month 2/1/99 to 1/31/00
14020 - Germantown C.O. (Friebis) 26 W. Cheltenham Avenue, Philadelphia, PA	1 ea. - 2 yd.	1 X wk	\$34.40	\$35.77	\$37.20	\$38.69
14070 - Ivyridge C.O. (Friebis) 4332 Terrace Street, Philadelphia, PA	2 ea. - 1 yd.	1 X wk	\$48.50	\$50.44	\$52.45	\$54.55
14130 - Northwest Work Center (Friebis) 100 E. Armat Street, Philadelphia, PA	30 yd. RO	approx. 2 X mo				
14340 - Baldwin C.O. (Friebis) 3429 N. 17th Street, Philadelphia, PA	2 ea. - 2 yd.	OC approx. 1 X mo	\$34.50	\$35.88	\$37.31	\$38.80
16200 - Market C.O. (Fegley) 900 Race Street, Philadelphia, PA	40 yd. RO	approx. 1 X mo				
16600 - Pennypacker C.O. (Olintz) 423 S. 17th Street, Philadelphia, PA	2 ea. - 2 yd.	3 X wk	\$206.40	\$214.65	\$223.24	\$232.17
16780 - Center City Work Center (Fegley) 479 N 3rd Street, Philadelphia, PA	12 yd.	3 X wk				
17002 - Byberry Road Garage (Allbrook) 2033 Byberry Road, Philadelphia, PA	1 ea. - 6 yd.	2 X wk	\$206.40	\$214.64	\$223.24	\$232.17
17003 - State Road Garage (Allbrook) 8382 State Road, Philadelphia, PA	30 yd. RO	approx. 1 X mo				
17007 - Neptune C.O. (Walls) 11016 Knights Road, Philadelphia, PA	1 ea. - 4 yd.	EOW	\$60.00	\$62.40	\$64.90	\$67.50
17012 - Orchard C.O. (Allbrook) 2210 Lott Avenue, Philadelphia, PA	1 ea. - 4 yd.	rev. 1 x wk	\$68.80	\$71.55	\$74.41	\$77.39

**Revised 6/1/97**

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**BUILDINGS PRICE SHEET****PHILADELPHIA (cont'd.)**

Building GLC Code and Location	Container Size	Frequency	Price/Month 2/1/96 to 1/31/97	Price/Month 2/1/97 to 1/31/98	Price/Month 2/1/98 to 1/31/99	Price/Month 2/1/99 to 1/31/00
17030 - Oakley Street Garage (Friebis) 7245 Oakley Street, Philadelphia, PA	1 ea. - 8 yd.	1 X wk	\$137.60	\$143.10	\$148.82	\$154.78
17110 - Waverly C.O. (Friebis) 6468 N. Broad Street, Philadelphia, PA	1 ea. - 1 yd.	1 X wk	\$34.40	\$35.77	\$37.20	\$38.69
17170 - New Davenport C.O. (Friebis) 4908-18 N. Broad Street, Philadelphia, PA	2 ea. - 2 yd.	OC approx. 1 X mo	\$34.50	\$35.88	\$37.31	\$38.80
17190 - Cheltenham Admin. (Sylvestri) 1347 W. Cheltenham Avenue, Philadelphia, PA	Rev. 6/98 1 ea. - 8 yd.	(M/Th/S) 3 X wk	\$	\$	\$412.56	\$412.56
19008 - Jefferson C.O. (Allbrook) 4808 Leiper Street, Philadelphia, PA	2 ea. - 2 yd.	2 X wk	\$137.60	\$143.10	\$148.82	\$154.78
19014 - Mayfair C.O. (Britt) 7180 Charles Street, Philadelphia, PA	1 ea. - 2 yd.	1 X wk	\$34.40	\$35.77	\$37.20	\$38.69
19040 - Regent C.O. (Friebis) 2514 Emerald Street, Philadelphia, PA	2 ea. - 2 yd.	OC approx. 1 X mo	\$34.50	\$35.88	\$37.31	\$38.80
19070 - Erie Avenue Work Center (Friebis) 160 West Erie Avenue, Philadelphia, PA	30 yd. RO	approx. 2 X mo				
19080 - Corporate Computer Center (Allbrook) 1101 W. Montgomery Avenue, Philadelphia, PA	<b>Deleted</b> 12/97		\$ N/A	\$	\$	\$
19080 - Corporate Computer Center (Allbrook) 1101 W. Montgomery Avenue, Philadelphia, PA	<b>Deleted</b> 12/97		\$N/A	\$	\$	\$

**Revised 6/98**

All roll-offs are billed at the rates contained in Pages 2 thru 5 above.

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CONTRACTOR'S NAME: USA Waste of Philadelphia, Inc.

Agreement No. BQ14188

Appendix D

Page 11 of 11

**BUILDINGS PRICE SHEET**

PHILADELPHIA (cont'd.)

Building GLC Code and Location	Container Size	Frequency	Price/Month 2/1/96 to 1/31/97	Price/Month 2/1/97 to 1/31/98	Price/Month 2/1/98 to 1/31/99	Price/Month 2/1/99 to 1/31/00
19100 - Poplar C.O. (Allbrook) 1601 W. Jefferson Street, Philadelphia, PA	1 ea. - 4 yd.	1 X mo	\$34.50	\$35.88	\$37.31	\$38.80
19106 - Metro Work Center (Friebis) 6800 Rising Sun Avenue, Philadelphia, PA	<b>delete</b> <b>10/31/96</b> 1 ea. - 2 yd.	1 X wk	\$34.40	\$35.77	\$37.20	\$38.69
19278 - Wingohocking Street W C (Allbrook) 1522 E. Wingohocking Street, Philadelphia, PA	<b>rev.</b> 30 yd. RO	OC approx. 1 X mo				
( )			\$	\$	\$	\$

rev. 8/1/97

All roll-offs are billed at the rates contained in Pages 2 thru 5 above.

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## **Attachment C**

THIS AGREEMENT by and between Hazleton Oil Salvage LTD, a company with an office at 300 Tamaqua St./Rt. 309 South, Hazleton, PA 18201 (hereinafter called "Supplier") and Telesector Resources Group, Inc., d/b/a Verizon Services Group, a Delaware Corporation with an office at 240 East 38<sup>th</sup> Street, New York, New York 10016, (hereinafter called "Verizon").

1.0 SCOPE OF AGREEMENT. This Agreement sets out the terms and conditions that will govern your provision of the services described in the Scope of Work attached hereto as Attachment A (Services). Verizon may, from time to time, modify the requirements of a Scope of Work. You may be required to perform the Services for Verizon, Verizon-New York, Verizon-New England or other companies related to Verizon, and these companies shall be entitled to all of the rights and benefits of this Agreement. This is an "as-ordered" agreement which means that it covers Services as they are ordered by Verizon. Verizon is not promising to purchase any Services from you and any estimates that Verizon may have provided to you are not firm or binding. Verizon may purchase the same or similar Services from other parties.

2.0 SERVICE ORDER. Verizon may order services by telephone or fax. Verizon shall notify you of the names of the individuals authorized to order services. You shall provide the Services at the time and place specified by Verizon when the Services are ordered

3.0 TERM OF AGREEMENT. This Agreement shall be effective on January 1, 2001 and shall end December 31, 2003, provided that Verizon may extend this Agreement for a period of up to (3) three years by giving you written notice at least thirty (30) days prior to the expiration date. The parties may renegotiate the prices and terms of this agreement annually.

4.0 PRICE. The prices for the Services are set forth in Attachment B. These prices are all inclusive and there shall be no other charges whatsoever. These prices shall not be increased during the term of this Agreement. If you lower your prices to other customers, you shall provide Verizon with such lower pricing. You may not charge Verizon for overtime work unless Verizon approved such work before it was performed.

5.0 PAYMENT. You shall send invoices to Verizon fully describing the Services covered, at an address designated by Verizon as outlined in Attachment C entitled 'Invoicing Instructions', attached hereto and made a part hereof, after you have completed and Verizon has accepted the Services. Verizon shall pay the invoices within forty-five (45) days from the date it receives the invoice. If Verizon disputes all or any portion of an invoice, it shall be required to pay only the amount not in dispute. All invoices must include garage number, task code, job number, vehicle number and application. Invoice must also include manufacturer part number, list price and our negotiated discount pricing. All labor should be billed by industry standard guides, such as, Chilton, Mitchell or Motors time guides. Invoice must include a detailed description of Services performed. All towing invoices must include time of tow, mileage in and out with any hook or additional charges listed. Verizon shall be entitled to set off any amount you owe against amounts payable under this or any other agreement.

6.0 LOWEST COST MATERIALS. If you purchase materials on behalf of Verizon you agree to make all purchasing decisions solely on meeting the needs of Verizon at the lowest possible cost. Verizon may direct you to purchase the materials from a Supplier chosen by Verizon.

7.0 AUDITS. You shall maintain, in accordance with standard recognized accounting practices, accurate and complete records that enable you to show that you have fulfilled all the requirements of this Agreement. You shall keep all of these records for three (3) years after this Agreement terminates. You shall allow Verizon and its authorized representatives to inspect these records, during normal business hours. Verizon shall be entitled to a refund for all amounts that the inspection finds Verizon overpaid you.

8.0 ACCEPTANCE does not occur merely because you perform Services or because Verizon pays for such Services. Should Verizon find the performance of any Services to be unsatisfactory, it may reject and not accept such Services. In this case Verizon may, at its choice, require you to re-perform the services or receive a full refund of any amount paid for such Services and then have those Services performed by another supplier with you reimbursing Verizon for any increased costs.

9.0 INDEPENDENT CONTRACTOR. You shall perform the Services as an independent contractor, and not as an employee, joint venture, partner or agent of Verizon. You shall properly pay your employees and shall ensure

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that all taxes and other amounts (for example workman's compensation) are withheld. You shall not bind, or attempt to bind, Verizon to any obligation with any third parties and you shall act at all times consistently with your status as an independent contractor. You are fully responsible for supervising your employees and for how you perform the Services. Verizon does not and will not have actual, potential, or any other control over you or anyone acting on your behalf, except as is otherwise expressly set forth in this Agreement.

10.0 **TOOLS AND EQUIPMENT.** You shall provide all labor, tools and equipment ("tools") used in providing Services. If you use tools owned or rented by Verizon, the tools are provided "as is" and it is your responsibility to inspect the tools to ensure that they are fit for use. You shall indemnify Verizon against all claims relating to injuries or damages caused by any tool that you use. You may not remove tools owned by Verizon or its Affiliates without written permission of Verizon.

11.0 **PREMISES.** You and all of your employees shall comply with all facility rules, regulations and security procedures of any Verizon facility at which Services are performed and you shall work in harmony with all others at any such facility. Upon completion of the Services, you shall remove promptly all implements, surplus materials and debris from the premises. You shall refrain, to the extent possible, from bringing any toxic or hazardous products onto the premises of Verizon. You shall refrain, notify Verizon in writing and shall supply any appropriate Material Safety Data Sheets (MSDS) if any material that is brought on Verizon's premises is considered toxic or hazardous or if the product is capable of constituting a health or safety hazard. You must assure that all such materials display all reasonable notices and warnings of foreseeable hazards. You are responsible for removing and, if the materials become waste materials, for properly disposing of, all such materials.

12.0 **WARRANTIES.** You warrant that you will perform the Services in a professional and workmanlike manner in full accordance with this Agreement, applicable laws and the highest standards of the industry. If you use any subcontractors, you warrant that you are fully responsible for their actions and that you will pay them for their work and you shall not allow any liens to be placed upon Verizon property. You shall, to the fullest extent possible, pass along to Verizon all manufacturer's warranties covering any products, materials and services you provide. This includes any recalls and campaigns as well as parts and labor warranty repairs. These warranties are in addition to all other warranties, express, implied or statutory. Verizon shall not, by paying for or accepting Services, waive any of its warranty rights. Verizon may, without limiting any of its other rights under this Agreement or at law, require you to re-perform Services which do not meet an applicable warranty. You shall also be responsible for any costs, expenses, and damages, which result from the failure of Service to comply with any of the warranties.

13.0 **INDEMNIFICATION.** You agree to indemnify, defend and hold Verizon and its Affiliates harmless against any losses, damages, liabilities, penalties, fines, claims or demands (including all costs, expenses and reasonable attorneys' fees on account thereof or in connection with any investigation or preparation related thereto or the enforcement of the indemnification provisions of this Agreement) that may be made by any party as a result of your actual or alleged acts or omissions, including your operation of Verizon vehicles.

14.0 **IMPLEADER AND LIMITED LIABILITY OF VERIZON.** You shall not implead or bring any action against Verizon based on any claim (i) by any Verizon employee for personal injury or death that occurs in the course or scope of employment of such person or (ii) by any person furnished by you under this Agreement based on employment contract, or federal, state or local laws prohibiting discrimination in employment.

16.0 **CONTINGENCY.** Neither party shall be liable for its failure to perform where such failure is due to any causes (such as strikes, wars, acts of sabotage or natural disasters) that are beyond its control and are not caused by its acts or omissions ("Contingency"). Each party shall promptly notify the other in case of a Contingency occurrence within five (5) days after the beginning thereof, and the party receiving notice may, by providing notice to the other party at any time during the period covered by the Contingency, extend the time for performance, or cancel all or any unperformed part, of this Agreement.

17.0 **VERIZON RIGHT TO TERMINATE.** Verizon may terminate this Agreement as follows: (i) immediately upon notice in response to regulatory or legal concerns or any concerns that activities under this Agreement may endanger the health or safety of a person, the environment or the Verizon network; (ii) at any time without cause upon sixty (60) days notice; or (iii) immediately upon notice for cause as follows: (a) for failure to perform, if

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Verizon first gave you notice of breach and an opportunity to cure in seven (7) days, or (b) based on Verizon's belief that you have engaged in illegal, criminal or fraudulent conduct in connection with the Services, (c) your failure to pay subcontractors or employees providing services under this Agreement, or (d) your insolvency or a change in your ownership.

18.0 INFORMATION AND INTELLECTUAL PROPERTY

18.1 Verizon shall not be obligated to refrain from using or disclosing to others any information that you provide to Verizon (even if labeled or otherwise designated as confidential). Any Information that Verizon furnishes to you shall remain Verizon property. You shall return such information to Verizon at Verizon's request. You shall keep the information confidential and shall not use the Information except as necessary to perform Services under this Agreement.

18.2 Any reports or information that you prepare shall be considered work for hire and shall be owned by Verizon.

19.0 COMPLIANCE WITH LAWS. You shall comply with all applicable federal, state or local laws and regulations. You agree that you will not discriminate against any employee or applicant for employment on account of race, color, religion, sex, disability or national origin. You shall have, while performing Services for Verizon, all permits or other appropriate records that may be required by law. All citations (i.e. traffic fines, parking summonses, etc.) issued to a Verizon vehicle or piece of equipment while in your care and custody shall be your sole responsibility.

20.0 ASSIGNMENT. You may not assign any right or interest or delegate any of your work or other obligations without first obtaining the written permission of Verizon. Any attempted assignment or delegation without such written consent from Verizon shall be void and ineffective. Verizon may freely assign this Agreement in whole or in part.

21.0 GENERAL PROVISIONS

21.1 GOVERNING LAW. The validity, interpretation and performance of this Agreement shall be governed by the procedural and substantive laws of the state of New York, except that the laws concerning conflicts of laws shall not apply.

22.2 SEVERABILITY AND NONWAIVER. In the event that one or more parts of this Agreement are determined by a court to be unenforceable, then such section shall be removed from the Agreement (provided that the Agreement is not significantly modified). The remaining parts of the Agreement shall be unaffected and shall remain in full force and effect. The failure of either party to strictly enforce any of the terms and conditions of this Agreement shall be construed as a waiver of the future performance of that term or condition.

22.3 NOTICES. All notices and other communications between the parties shall be effective when received at the addresses specified below. Notices must be sent by certified or registered mail (return receipt requested) or to the fax number set forth below (with proof of sending retained). The parties may, by providing seven (7) days' written notice, change the addresses set forth below.

Notices to Verizon shall be sent to:

Verizon Corporate Sourcing  
240 East 38th Street, 23rd Floor  
New York, NY 10016  
Attn: Elaine Schwartz  
Tel No.: (212) 338-7282 Fax No.: (212) 476-5248

Notices to Supplier shall be sent to:

Hazleton Oil Salvage LTD.  
300 Tamaqua St./Rt. 309 South  
Hazleton, PA 18201  
Attn: Mr. Frank Umbriac  
Tel No: (570) 454-3464 Parts Dept. Fax No: (570) 929-3048

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22.4 SURVIVAL OF OBLIGATIONS. Obligations under this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive termination, cancellation or expiration of this Agreement.

22.5 ADVERTISEMENTS. You shall not, without prior written consent of Verizon, use Verizon trademarks, logos or other identifiers or publicize the fact that you have furnished Services to Verizon.

22.6 GIFTS AND GRATUITIES. The exchange or offering of any money, gift item, personal service, entertainment or unusual hospitality by either party to the other is expressly prohibited. This prohibition is equally applicable to the parties' officer, employees, agents and immediate family members. You shall notify the Verizon Security Office if any Verizon employee asks you to violate this prohibition.

23.0 ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and shall not be changed, modified or rescinded, except by a writing signed by both parties. All provisions on you forms shall be deemed rejected by Verizon, void and of no effect. This Agreement replaces, revokes and rescinds all prior oral and written quotations, agreements, and understandings of the parties with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first above written.

**Hazleton Oil Salvage LTD.**

**Telesector Resources Group, Inc.  
(a Verizon Company)**

By \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_

Name Elaine Schwartz

Title \_\_\_\_\_

Title Sourcing Process Leader

Date \_\_\_\_\_

Date \_\_\_\_\_

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**Attachment A**  
**Scope of Work**  
**Vendor Out Services**

The following Scopes of Work cover the vendor out services that are required to support the local maintenance functions performed at the Verizon garages. While we have provided some detail and service requirements, these descriptions are not all inclusive. They are provided to give you an understanding of the service requirements and commitments we will require of you.

The movement of Verizon vehicles, off Verizon property, can only be done using a tow or transporter plate. The operation of Verizon vehicles between locations is prohibited. Road testing in conjunction with a repair is the **ONLY** exception.

**INSURANCE** You shall obtain and maintain at your own expense, at all times while performing Services for Verizon, the following insurance: (i) **Commercial Auto Liability insurance** of not less than \$2,000,000 per occurrence with an excess in the umbrella form for \$1,000,000; (ii) **Workers Compensation** to meet statutory requirements, and **Employer's Liability** of not less than \$1M per occurrence. (iii) **Pollution Liability Insurance** in state of no less than \$2,000,000. Companies doing interstate business must have no less than \$5M.

The insurance required above must be provided by insurers licensed to do business in the state in which the work is performed and must have AM Bests Rating "AX" or better. Supplier shall deliver a certificate of insurance prior to the start of any work which names Verizon and its affiliates, as additional insured on the Commercial General Liability and Garage Liability policies. Furthermore, the Certificate must state that Verizon shall receive at least thirty (30) days notice of cancellation or modification of the above insurance and you are responsible for assuring that Verizon receives such notice.

You are required to name Verizon as an additional insured before the start of business. Any changes and annual renewals must be sent to Verizon.

**DESCRIPTION OF SERVICES**

**Environmental Services**

Hazleton Oil Salvage Ltd will provide Verizon fleet operations garages all services on a "will call, call out as needed" basis.

Hazleton Oil Salvage Ltd. will primarily be responsible, but not limited to, free waste oil & fuel removal from Verizon garages in Pennsylvania.

Other environmental services and pricing will be maintained under the Schedule B pricing and conditions for the 3 years unless stated in a letter 60 days prior to any pricing change to Verizon Corporate Sourcing to the contracts here within.

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**Attachment A**

**DESCRIPTION OF SERVICES(Cont'd)**

**Environmental Services(Cont'd)**

All drums for waste collection will be provided at no charge.

Hazleton Oil Salvage Ltd. will dispose of waste products according to environmentally sound procedures from "cradle to grave", as audited by the Verizon Environmental Services team.

**NOTICE**

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**ATTACHMENT B**

**Price List**

**Hazleton Oil Salvage LTD.  
300 Tamaqua St./Rt.309 South  
Hazleton, PA 18201  
Contact: Frank Umbriac  
Phone # (800) 458-3496  
Fax #(570) 929-3048  
Prices Effective: 1/1/01- 12/31/03**

**Price List**

<b>Reclaimable Oils &amp; Fuels</b>	<b>Minimum 200 gallons stored in a tank or indoors (Uncontaminated): No Charge Stored in drums outdoors: No Charge</b>
<b>Antifreeze</b>	<b>Free removal if tested @ -20 degrees uncontaminated. Oil contaminated or weak: \$ .50 per gallon or \$25.00/per 55 gallon drum.</b>
<b>Industrial Oils (Hydraulic Oils)</b>	<b>Uncontaminated: No Charge</b>
<b>D.O.T. Drums</b>	<b>\$ 45.00 per drum, delivered</b>
<b>Generic Drums (empty)</b>	<b>\$ 20.00 per drum, delivered</b>
<b>Used Oil Filters</b>	<b>\$ 65.00 per 55 gallon drum</b>
<b>Oil Absorbents / Sludge</b>	<b>\$ 125.00 per 55 gallon drum</b>
<b>Gear Pump Truck Rate</b>	<b>\$ 75.00 per hour – Renting Vehicle</b>
<b>Vacuum Truck Rate (including travel time)</b>	<b>\$ 80.00 per hour – Renting Truck w/Driver</b>
<b>Drum Disposal – (empty)</b>	<b>\$ 20.00 per drum</b>
<b>Tank Disposal</b>	<b>Starting at \$ 80.00 per hr.(includes travel time)</b>
<b>On Site Halogen Test</b>	<b>\$ 30.00 per test.</b>
<b>Disposal of materials-Waste Water Emulsions &amp; Tank Bottom Contaminated solids,sludge,debris.</b>	<b>To a max. of \$ .50 per gallon To a max. of \$ .60 per gallon To a max. of \$2.00 per gallon</b>

**NOTICE**

**Not for disclosure outside of Verizon Corporation or any of its subsidiaries without prior written consent.**

## **ATTACHMENT B**

**Other Services Available:** Vacuum truck service  
Analytical testing available  
Parts Washers / Non-hazardous parts wash  
Disposal of paint thinner & other hazardous liquids.

Hazleton Oil Salvage Ltd. accepts full responsibility for the pickup, transportation (including accidental spills), and subsequent disposition of all waste oils and antifreeze from Verizon facilities in Accordance with guidelines set forth by the Pennsylvania Department of Environmental Protection and the New York Department of Environmental Conservation.

### **WASTE OIL PICKUP LOCATIONS**

**(MUST CALL FRANK UMBRIAC FOR PICKUP @ 1-800-458-3496)**

Airport Beltway	Hazleton
725 Casey Ave.	Wilkes-Barre
1800 Race St.	Allentown
4219 Fritch Dr.	Bethlehem
St. Clair Industrial Park	St. Clair
Route 61	Paxinos
Rt. 42 South of Exit 34	Bloomsburg
366 E. 2 <sup>nd</sup> Ave.	South Williamsport
2851 Leisz's Bridge Rd.	Reading
801 S. 29 <sup>th</sup> St.	Harrisburg
1010 Old Bethlehem PikeColmar	
Exit 5 Route 84	Hamlin
Route 652	Honesdale
Airport Drive	Doylestown
Monahan Ave.	Dunmore
Progress Ave.	East Stroudsburg
2580 General Armistead Ave.	Trooper
2494 Schuylkill Rd.	Parker Ford
2875 Appleton St.	Camp Hill
1170 Enterprise Ct.	East Petersburg
1185 Enterprise Ct.	East Petersburg
401 Green St.	Lebanon
Dunham Dr.	Dunmore

#### **NOTICE**

Not for disclosure outside of Verizon Corporation or any of its subsidiaries without prior written consent.

**NOTICE**

**Not for disclosure outside of Verizon Corporation or any of its subsidiaries without prior written consent.**

## **Attachment D**



240 East 38<sup>th</sup> Street, 23<sup>rd</sup> floor, New York, New York 10016

**ACCEPTANCE SHALL BE INDICATED BY:**  
**(1) SIGNING AND (2) RETURNING**  
**(2) BOTH ORIGINAL COPIES TO:**  
**THE ADDRESS LISTED BELOW**

November 17, 2000

Waste Management, Inc.  
1000 New Ford Mill Road  
Morrisville, PA 19067  
Attn.: Mr. Ken Brask, East Zone Director

Re: Amendment No. 2 to Contract No. E14016P, for services in Rhode Island, New Hampshire and parts of Massachusetts

Through this amendment the following changes are made to the current contract. As of December 1<sup>st</sup>, 2000, the following changes to the contract shall be implemented:

- 1) The company name in the current agreement, i.e. Telesector Resources Group, Inc., referred to as NYNEX, shall be updated and changed to Telesector Resources Group, Inc., d/b/a Verizon Services Group, a Delaware corporation, hereinafter referred to as VERIZON.
- 2) All references to Waste Management, Inc. in the current agreement shall be updated and changed to Waste Management Holdings, Inc., and the following language shall also be added; Waste Management Holdings, Inc will perform all services under this Agreement through its subsidiaries and affiliates and their respective operating divisions.
- 3) The service areas, Mid State New York zones 1 & 3, governed by Contract No. BQ16387 between VERIZON and A-1 Compaction, a Waste Management Company, are hereby incorporated into this Agreement at the current pricing, (see Exhibit A), until the intended expiration date of Contract BQ16387, May 31, 2001. Thereafter, these services shall be provided at the pricing shown in Exhibit B. As of December 1<sup>st</sup>, 2000 contract BQ16387 is hereby terminated. All of the above shall occur, unless Waste Management, (hereafter referred to as Supplier), can provide documentation stating and proving that the said contract was rendered null and void by actions of the Westchester County Supreme Court. Should such be the case then as of December 1<sup>st</sup> the service areas once governed by contract BQ16387 shall be transferred to this Agreement under the pricing provided in Exhibit B.
- 4) The service areas and pricing, listed in the current contract and at which Supplier provides service to VERIZON, shall be replaced and supplemented by the service area(s) and pricing list attached to this amendment, (Exhibit B), except for the buildings listed under Mid State New York, zones 1 & 3 which shall be handled as described in the preceding paragraph.
- 5) The scope of work is hereby updated and replaced by the attached scope of work, Exhibit C.

**Contract No. E14016P**  
**Amendment No. 2**

6) No Hazardous Waste: VERIZON and VERIZON affiliates shall not provide supplier with any hazardous wastes. Hazardous waste shall be defined as those wastes that are identified as "hazardous waste" under the federal Resource Conservation and Recovery Act and its implementing regulations, specifically 40 CFR 261.30-33 and 40 CFR 261.20-24, as well as any applicable similar state laws and regulations. If any of VERIZON's or VERIZON affiliate's waste does not conform to the descriptions in the General Scope of Work attached hereto, (non conforming waste), Supplier may, at its option, return it to VERIZON or VERIZON Affiliates or require VERIZON or VERIZON affiliates to remove and dispose of the non-conforming waste at VERIZON or VERIZON affiliates expense, and reimburse Supplier for any expenses incurred therefore.

7) Payment terms shall be changed from 30 days to 45 days. As such, VERIZON has 45 days from the receipt of invoice to execute payment for services rendered.

**8) Work Stoppage/Strike Contingency**

- a) The Supplier agrees to make all reasonable efforts to perform in compliance with all the terms and conditions of this Agreement and to provide the same level of service during a work stoppage/strike situation that it provides when there is no work stoppage or strike situation. The Supplier makes this service level commitment regardless of the identity of those conducting the work stoppage, i.e. Supplier employees, VERIZON employees or other. Should Supplier be unable to perform, Supplier agrees to inform VERIZON at the earliest possible moment of its inability to perform and the reason for such inability in order that an alternative means of having the Services performed can be secured by VERIZON. The time between a failed attempt to perform the Services and communication to VERIZON concerning its inability to perform shall not exceed forty-eight (48) hours.
- b) The Supplier will, within thirty (30) days of signing the contract, provide a written contingency plan to VERIZON, describing how it intends to perform the commitment discussed above. Additionally this contingency plan shall describe the means by which the Supplier intends to inform VERIZON when it is unable to perform the Services.

**9) Assignment**

Supplier may not assign any right or interest under this Agreement or a task order issued pursuant to this Agreement (excepting moneys due or to become due) or delegate any work or other obligation owed by Supplier under this Agreement without first obtaining the written permission of VERIZON, which VERIZON may refuse in its sole discretion, unless such assignments are driven by regulatory requirements. In those cases Supplier shall commit to make a good faith effort to secure in writing, agreement to VERIZON's terms and then forward such written agreement to VERIZON. In all such cases, Supplier agrees to inform VERIZON at the soonest possible moment of such assignments along with the name and contacts of the firm to which the assets are being assigned. Any attempted assignment or delegation in contravention of this section shall be void and ineffective. Notwithstanding the foregoing, Waste Management Holdings, Inc. (WMHI) may delegate or assign to any subsidiary or affiliate or their respective operating divisions its performance hereunder or any portion thereof. Any such delegation or assignment shall not operate to relieve WMHI of its responsibilities hereunder.

**10) Firm Pricing:**

- a) Except as otherwise set forth in this Section 10, the pricing herein is firm until January 1, 2002. Thereafter, pricing adjustments shall be available on an annual basis, according to the movements in the Consumer Price Index, (CPI), except that no adjustments will be available until after the CPI has increased by at least 3% relative to its level at the close of the year 2000. Should the CPI increase by 3% or more during the one-year measurement period, VERIZON will negotiate the appropriate level of increase with the Supplier, except that pricing adjustments shall never exceed the percent increase in the CPI.
- b) Conversely, should the CPI decrease during the measurement period by 5% or more, than Supplier shall negotiate with VERIZON an appropriate price decrease. The price decrease shall not exceed the percent decrease in the CPI.
- c) VERIZON agrees to modify the compensation provided to Supplier in response to changes in landfill fees/taxes imposed by landfills and or transfer stations not owned by Supplier, provided that Supplier can

**Contract No. E14016P**

**Amendment No. 2**

document that amount of the changes and that the changes are not controlled or imposed by Supplier. Supplier shall handle such landfill and or transfer station charges as a passthrough to VERIZON with no markup.

- d) In the event there are prolonged or substantial changes in the cost of fuel, Supplier may increase pricing to reflect a fuel surcharge. The surcharge formula will use the 1999 average price of diesel fuel as a basis to compute the surcharge. The surcharge will be calculated using Spot Prices for Low Sulfur No. 2 Diesel fuel as published by the Energy Information Administration of the U.S. Department of Energy for the last business day in a given month. The year over year change between the 1999 average price of diesel fuel and the Spot Prices for Low Sulfur No. 2 Diesel fuel will be a factor that will then be multiplied against the actual fuel cost expense incurred by Contractor as a percent of revenue. The surcharge will be adjusted monthly to reflect increases or decreases in diesel fuel prices and will be eliminated if fuel prices stabilize at or below the 1999 average. Surcharges appearing on VERIZON's invoices will reflect fuel cost based on the fuel index for the last day of the month preceding bill preparation.
- e) As discussed, in return for inclusion of the fuel surcharge language above, the Supplier has proposed to reduce its transportation and service charges by 2%, relative to the pricing that was specified in the pricing sheets at the time of award. Verification that the agreed to discount has been applied to the pricing shall be made by a cover letter to the Pricing Exhibit co-signed by both parties or an amendment to the Agreement, co-signed by both parties.

**11) Unit Pricing Matrix**

Within 60 days of the execution of this Agreement, the Supplier shall provide VERIZON with a completed unit price matrix or pricing formula, if one is not already attached to this Agreement. The unit price matrix or formula shall be used when VERIZON needs to change the frequency of pick up or size of container at a facility. The unit price matrix or formula shall govern the costs at which these changes in services shall occur and may be specific to the geographic area(s) where services are rendered under this Agreement. The costs charged via the unit price matrix or formula shall be equivalent to the costs currently shown in the monthly cost spread sheets for roll offs and containers. Changes in the size of a container or frequency of pick up shall be at the sole discretion of VERIZON.

**12) Additional Zones and Pricing**

Exhibit D lists pricing provided by Supplier as part of the bid process for geographic areas that Supplier is not being awarded. This pricing is included in this amendment as a contingency, such that if VERIZON should have the need at some point in the future to request the Supplier's services at one or more of the buildings listed Exhibit D, the pricing listed shall be used as a baseline from which to calculate the pricing for the services. It is understood and agreed to that the resultant pricing shall consider the number of locations being transferred, the proposed length of time for which the services are required and the lead-time provided to Supplier. Supplier retains the right to refuse the additional work with no penalties or consequences to this Agreement.

**13) The Diversity Requirements in Exhibit E, shall be made part of this agreement.**

**14) Term of Agreement**

The expiration date of this agreement is extended to November 30, 2003.

**15) Section 14.0 Indemnification is hereby modified as follows:**

- a) You agree to indemnify, hold harmless and defend VERIZON (including its parent, subsidiary and affiliate companies), its successors, assigns, employees, officers and customers against all expenses, liabilities, penalties, claims and demands (including but not limited to attorney's fees and court costs), to the extent such are caused by or arise out of any negligent act, negligent omission or willful misconduct of the Supplier or its employees in the performance of this Agreement. Your obligation to indemnify and hold harmless shall include, any claims resulting from your actual negligence or wrongdoing, the actual negligence or wrongful actions of any person or subcontractor supplied by you, any infringement by you of any third party's intellectual property rights. Your obligation to indemnify shall cover claims and demands of all



**Contract No. E14016P**

**Amendment No. 2**

parties, including but not limited to: all parties covered by this paragraph; the general public; employees of VERIZON; your employees; and business invitees of either party. The obligation of Supplier to indemnify VERIZON shall not apply to events or occurrences involving non-conforming waste nor to VERIZON's consequential, incidental or punitive damages. The foregoing exclusion of Supplier's liability for consequential, incidental or punitive damages shall not apply to damages awarded to a third party in an action for which Supplier has an obligation to indemnify VERIZON for personal injury (including death) or damage to such third party's property (including theft). However this obligation to indemnify a third party for consequential, incidental or punitive damages shall be limited to Supplier's proportionate share of liability for these damages.

- b) If VERIZON is not satisfied with your handling of any claim or lawsuit, or if VERIZON is concerned about your ability to defend a claim or pay a judgement, VERIZON may, without jeopardizing any of its rights, be entitled to participate as it deems appropriate in the defense or handling of that claim. If you do not diligently handle any matter, then, in addition to any other available remedy, VERIZON shall be entitled to compensation from you for its handling of the matter. Nothing in this section requires VERIZON to assume any role in the defense or handling of any matter covered by your obligation to indemnify and hold harmless.

16) Section 15.0 Impleader is hereby deleted in its entirety.

**17) Equipment Use:**

The equipment furnished by Supplier to VERIZON shall remain Supplier's property, and VERIZON shall have no interest in such equipment. VERIZON shall be responsible for all loss or damage to the equipment resulting from VERIZON's handling of the equipment, except for normal wear and tear. VERIZON shall not overload (by weight or volume), move or alter the equipment, and shall use the equipment only for its proper and intended purpose.

18) Section 20.0 Government Contracts is hereby replaced in its entirety with the following:

If Supplier is required to provide Services to VERIZON pursuant to a Government Contract VERIZON has entered into with any United States Government or State or other governmental authority, VERIZON shall first notify Supplier, and shall provide Supplier with a copy of all pertinent and applicable provisions of the Government Contract which specifically apply to the Services to be provided by Supplier and which are required by such Government Contract to be incorporated into any lower tier subcontract. Failure of VERIZON to provide such notice and a copy of all such provisions shall release Supplier from any obligation to comply with same.

All other terms and conditions of this Agreement remain the same and unchanged.

Please feel free to call me at (212) 338-7009 should you have any questions. Please sign both copies of the Agreement, where indicated and return to the address below for execution by VERIZON:

VERIZON Corporate Sourcing, Real Estate  
240 East 38<sup>th</sup> Street, 23<sup>rd</sup> Floor  
New York, New York 10016  
Attn.: Mr. Patrick Giaquinto, Contract Administrator

For Waste Management Holdings, Inc.

For Telesector Resources Group  
d/b/a VERIZON

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**VERIZON**  
**Corporate Real Estate**

**Waste Management Services Specification**

**1) General Scope of Work:**

- a) The general scope of this specification is to provide Waste Management services for all of the VERIZON owned and leased locations identified in "Attachment B " entitled Fee Schedule Sheets.
- b) The intent of the Waste Management Services specification is to provide VERIZON with a Waste Management Services contractor, who can provide a professional and experienced staff, on a three hundred sixty five (365) days a year, twenty four (24) hours per day basis, to manage VERIZON waste. Notwithstanding the foregoing, the Waste Management Services Contractor shall provide the scheduled services as specified in the attached pricing/inventory spread sheets titled Pricing. Additionally, the Supplier shall make a good faith effort to provide additional services in a manner that meets VERIZON requirements. Examples of said waste will include wet trash, mixed office trash, old corrugated containers (non- recyclable), various types of wood, glass and plastic's bottles and aluminum cans (recyclable). The Waste Management services contractor, from here on referred to as "The Contractor", is asked to provide but is not limited to the following devices and reports.
  - (1) Containers – 4 x 4 plastic with sides that fold down
  - (2) Containers, Compactors and balers and associated materials
  - (3) Compactor Metal Decking Systems
  - (4) Compactor and baler Electrical Services
  - (5) Compactor and baler Warranty/Purchase Service
  - (6) Waste Container Pick-Up Service, Compactor container services and baled product services
  - (7) Cubic Yard construction & Bulk Waste Containers
  - (8) Waste Container/Compactor Container / Baler Chamber Odor Program
  - (9) Waste/Recycle Container/Compactor Size & Pickup Frequency Optimization Program
  - (10) Containers for accumulating glass and plastic bottles and aluminum cans
  - (11) Monthly reports for glass and plastic bottles and aluminum cans weights by location
  - (12) Invoicing Requirements
  - (13) Quarterly Waste Management services cost reports
  - (14) Monthly reports for waste weights, fees and fee make up by location
  - (15) Quarterly reports listing the final destination of all VERIZON waste
  - (16) Quarterly audits of various waste containers listing the percentage of the items to it's entirety
- c) The above stated waste types, equipment types, services, programs, and administrative reports make up the VERIZON Waste Management Program.
- d) The Waste Management Services contractor must be capable of efficiently and effectively managing all aspects of the VERIZON Waste Management Program in a professional manner, always acting in the best interest of VERIZON, coordinating and scheduling the provisioning of waste and compact containers, and bail of waste and pick-up frequencies in order to ensure that VERIZON can operate its telecommunications business in a waste free environment.
- e) The Waste Management Services contractor awarded a contract shall be given the current Corporate Real Estate and Environmental Call List applicable to the list of locations. Additionally, in the event of an accident on VERIZON premises or a condition resulting in the Contractor being unable to enter or access the VERIZON facility to perform the services specified herein, the Contractor shall call the VERIZON BARES center to log the incident with Corporate Real Estate.

- f) The Waste Management Services contractor will provide all labor, material, tools, supplies, equipment, containers, compactors, balers (except in locations where VERIZON owns the container, compactor, or balers), service charges, pick-up charges, dump fees, waste weight reports, vehicles and all other cost and/or charges whatsoever in order to fulfill VERIZON requirements as specified in this scope of work.

## **2) Provisioning of Containers, Compactors and Balers:**

- a) The Waste Management Services contractor will be responsible for the purchase, installation, and maintenance of all waste containers, compactors and balers including attached boxes (where applicable).
- b) The Waste Management Services contractor will provide and maintain all waste containers and compactors and attached boxes in a "like new" condition. The Waste Management contractor will at no additional cost and at the discretion of the VERIZON Property Manager and/or Environmental Specialist:
  - i) Change color of any container, compactor, baler or attached box to a new color as specified by the VERIZON Property Manager
  - ii) Add and maintain locks on all containers, compactors, balers, and attached boxes
  - iii) Provide keys to the VERIZON Property Manager on request
  - iv) Replace any container, compactor, baler, and attached box deemed unsuitable due to i.e., dents, scrapes, scratched, mechanical failure, bent doors, or bent covers, on or with a container, compactor, and attached box
  - v) Provide plastic cover lids in place of metal lids at any location determined by the VERIZON Property Manager

## **3) Provisioning of Compactor and / or Baler Metal Decking Systems:**

The Waste Management Services contractor will be responsible to fund, design and install any/all metal decking systems associated with any/all new and previously (required repair or replacement) installed waste compactor / baler installation at no cost to VERIZON. All metal deck designs will be in strict compliance with all Local, State, Federal Laws, Regulations, Codes, Property Management and Environmental Specialist.

## **4) Provisioning of Compactor / Baler Electrical Services:**

- a) VERIZON shall be responsible for providing electrical service to any/all new and/or existing waste compactor / baler locations where the compactor / baler is replaced. The Contractor will be responsible for the purchase, installation and maintenance of the compactor / baler and attached box (where required). The Waste Management Services contractor's responsibility will include all final electrical service connection to the waste compactor / baler. Annual maintenance will be performed to the plunger portion and its associated parts of the compactor, to assure that correct pressure is being exerted to maintain proper maximum waste load in the container. Red and green signal lights as well as pressure gauges will be installed on all units.
- b) The Waste Management Services contractor will design their waste compactor / Baler electrical service in strict accordance with the following:
  - i) **Wiring:**
    - (1) All wiring used for low voltage circuits shall be copper conductor and shall be in strict compliance with NFPA 70 (NEC), all (OEM) recommendations and all Local, State, Federal Laws, Regulations and Codes.
    - (2) All wiring used for high voltage circuits shall be copper conductor and shall be in strict compliance with NFPA 70 (NEC), all (OEM) recommendations and all Local, State, Federal Laws, Regulations and Codes.

- (3) All wiring used for underground, damp and/or wet locations circuits shall be copper conductor (Type THHN) and shall be in strict compliance with NFPA 70 (NEC), all (OEM) recommendations, and all Local, State, Federal Laws, Regulations and Codes.
- (4) All wiring used for other circuits shall be copper conductor, color-coded, labeled and in strict compliance with NFPA 70 (NEC), all (OEM) recommendations and all applicable Local, State, Federal Laws, Regulations and Codes.
- (5) All wiring shall be labeled by markers. The markers shall be of a taped band type, of permanent materials, and shall be suitably and permanently stamped with the proper identification. The markers shall be attached in such a manner that will not permit accidental detachment.
- (6) All splice points and termination points shall be mechanically sound and in strict compliance with NFPA 70 (NEC), all (OEM) recommendations and all applicable Local, State, Federal Laws, Regulations and Codes.

**ii) Conduit:**

- (1) All wiring shall be in watertight rigid metal conduit and shall be in strict compliance with NFPA 70 (NEC), all (OEM) recommendations and all Local, State, Federal Laws, Regulations and Codes.
- (2) All service boxes, junction boxes, disconnect switches, operating control(s), pressure gauges, red and green signal lights, and associated boxes and conduit connectors shall be marine grade and completely waterproof.
- (3) The Waste Management Services contractor will immediately make any change(s) to the VERIZON As-Built Drawing(s) required.

c) Provisioning of Baler, baler electrical service, baler wiring, baler conduit and baler wire ties.

**5) Compactor Warranty / Maintenance Service:**

For any new compactor purchases by VERIZON, The Contractor will provide a minimum of a one (1) year full warranty. The contractor will also be able to provide maintenance service for any compactor not under warranty at the request of VERIZON. The contractor is to provide unit prices for this service. VERIZON reserves the right to have any supplier provide maintenance services for its compactors.

**6) Waste Container / Compactor Pick Up Service:**

The Waste Management Services contractor will provide all labor and equipment to pick-up and remove any/all wet waste, construction debris and bulk debris in strict compliance with all applicable Local, State, Federal Laws, Regulations and Codes. Wet waste may be bagged separately and stored in the loading dock area or some other designated area (other than in a container or compactor) for pick-up.

- a) The Waste Management Services contractor will pick-up all waste according to the schedule specified in the Locations list. For those locations with an identified frequency of "On-Call," the Waste Management Services contractor will pick up all waste products within twenty four (24) hours of the call for service.
- b) The Waste Management Services contractor will provide all labor and equipment to pick-up all waste from loading docks and/or other designated storage areas for locations identified as such and according to the schedule specified in the Locations list. VERIZON may, at its discretion, change the pick up frequencies and container sizing as a means of optimizing its waste management program. The Contractor will be expected to adjust its schedule to the new pick up frequencies and container sizing and its pricing, as specified in the attached Fee Schedule sheets. Unless specified otherwise in writing, all other parts of the agreement would remain the same and unchanged.

- c) The Waste Management Services contractor will provide all labor and equipment to pick-up all waste during the time that is agreeable between the Waste Management Services contractor and the VERIZON Property Manager.
- d) The Waste Management Services contractor will provide all labor and equipment for the Emergency removal of all waste products on a twenty-four (24) hour, on-call basis.

**7) Cubic Yard Containers & Bulk Waste Containers:**

- a) The Waste Management Service Contractor shall institute a waste container, compactor container, and baler size optimization program, to ensure that VERIZON locations are properly sized, to maximize loads and minimize fees. The Contractor shall not implement any changes however until it has received authorization from the VERIZON Property Manager and/or Environmental Specialist. The prices specified in the attached "Unit Pricing" spreadsheets shall be applied when such changes are authorized/or by VERIZON.
- b) The Waste Management Services contractor will institute a waste container and compactor size optimization program to ensure that VERIZON waste containers and compactors are properly sized for the specific VERIZON location in order to minimize waste container and compactor fees.
- c) The Waste Management Services contractor will institute a waste container and compactor pick-up frequency optimization program to ensure that VERIZON waste containers and compactors are only picked up when they are completely full in order to minimize pick-up frequencies and pick-up costs.
- d) The Waste Management Services contractor will remove and replace any container and compactor with a smaller or larger size container and/or compactor at the discretion of the VERIZON Property Manager and/or Environmental Specialist. Container changes involving Roll Off containers shall be accomplished at no additional charge to VERIZON. Container changes involving non-roll off containers may be accompanied by a service fee, provided a service fee was proposed by the Contractor and accepted by VERIZON at the time of contract implementation.
- e) The Waste Management Services contractor will provide all labor and equipment to transport and dispose of any/all waste container, compactor container, and baled waste in strict compliance with all Local, State, Federal Laws, Regulations and Codes.
- f) The Waste Management Services contractor will be responsible to pay any/all waste container and compactor disposal fees. These disposal fees are to be included as part of the contractor's price.
- g) VERIZON reserves the right to use any/all other contractors for the removal of Waste, Cubic Yard & Bulk Containers, Compactor Containers, and Bales of Waste.

**8) Waste Weight Reports:**

- a) VERIZON retains the option to request and the Waste Management Services contractor agrees to perform periodic surveys and provide periodic reports that comply with the parameters specified below. The Waste Management Service contractor shall provide VERIZON on a monthly basis, with The survey period may be from one to two weeks in length and may occur up to once every six (6) months. The report shall contain the following: a printout indicating, location address, geo. code, (shall be provided upon contract implementation) tonnage of waste for Roll Off containers and volume estimates for Non Roll Off containers, dates of pick-up, hauling fee, container fee (if applicable), tipping fee, and total waste service

dollar amount, for All Roll-Off and Non-Roll Off Containers. The report shall also be provided on electronic format in Excel version 5.0 or lower.

**9) Waste Container / Compactor Container / Baler Chamber Odor Program:**

- a) The Waste Management Services contractor will be responsible to institute a waste container and chamber odor control program to ensure odors are not emitted in the outside or inside VERIZON air space.
- b) The Waste Management Services contractor will provide 1 cubic yard to 4 cubic yard containers, at work centers and garages, to only serve as collection points for glass and plastic bottles, and aluminum and steel cans.
- c) VERIZON retains the option to request and the Waste Management Services contractor agrees to perform periodic surveys and provide periodic reports that comply with the parameters specified below. The survey period may be from one to two weeks in length and may occur up to once every six (6) months. The report shall contain the following: a printout indicating, location address, geo. code, (shall be provided upon contract implementation) weight of bottles, cans and plastic (combined), dates of pick-up service charge and rebate. The report shall also be provided on electronic format in Excel version 5.0 or lower.

**10) Waste Container / Recycle Container ( for glass, plastic and aluminum ) / Compactor and Baler Size Optimization and Pick-Up Frequency Program:**

The Waste Management Services contractor will at the request of, and in conjunction with the VERIZON Property Manager and/or Environmental Specialist, conduct quarterly audits of various waste containers at the Waste Management Service facility.

**11) Invoicing Requirements**

- a) The Waste Management Service Contractor shall provide VERIZON with a monthly summary invoice containing the following information and documents for Roll-Off Containers:
  - (1) Waste Management Service contractor's company name
  - (2) Waste Management Service contractor's 'Remit to' address
  - (3) Date of invoice
  - (4) Invoice Number
  - (5) Agreement Number
  - (6) Purchase Order Number (To be assigned upon receipt of the Waste Management Service contractor's first invoice.)
  - (7) Weight Ticket
  - (8) Type of Service
  - (9) Period of Service provided (i.e. July 31, 1999)
  - (10) Service location address and Geo. Code (The location address is specified on the Fee Schedule sheet. The Geo Code shall be provided upon implementation of the agreement)
  - (11) Total Monthly fee per location itemized as follows;
    - All taxes separately identified
    - Tipping fee
    - Container fee
    - Hauling fee
    - Environmental fee
    - Size of container
    - Total fee per Location

b) The Waste Management Service Contractor shall provide VERIZON with a monthly summary invoice containing the following information and documents for NON Roll-Off Containers:

- (1) Waste Management Service contractor's company name
- (2) -Waste Management Service contractor's 'Remit to' address
- (3) Date of invoice
- (4) -Invoice Number
- (5) Agreement Number
- (6) Purchase Order Number (To be assigned upon receipt of the Waste Management Service contractor's first invoice.)
- (7) Type of Service
- (8) Period of Service provided (i.e. July 31, 1999)
- (9) Service location address and Geo. Code (The location address is specified on the Fee Schedule sheet. The Geo Code shall be provided upon implementation of the agreement)
- (10) Total Monthly fee per location itemized as follows;
  - All taxes separately
  - Tipping fee
  - Container fee
  - Hauling fee
  - Environmental fee
  - Size of container
  - Total fee per Location

c) The Waste Management Services contractor shall submit invoices to the following address, unless otherwise notified;

VERIZON Regional Bill Payment Center  
1717 Arch Street Floor #22  
Philadelphia, PA 19103

## **12) Quarterly Expenditure Report:**

The Waste Management Services contractor will provide to VERIZON quarterly waste management cost reports, which detail the total number of pick-ups per location and total waste cost per location. These waste management reports will be published quarterly during each year for the duration of the contract and delivered to VERIZON not more than thirty (30) days from the end of the following months: March, June, September, and December. Copies of these quarterly reports will be distributed to the respective VERIZON Property Manager, Area Property Manager, Corporate Real Estate Customer Service Center Staff Director, Environmental Specialist and Sourcing Process Leader.

## **13) Damage to VERIZON Property.**

Any damage to VERIZON property shall be reported during the same work day of the occurrence, to the VERIZON Control Center in Freehold, NJ, by calling 1-888-696-3973

## **14) Litter & Debris and Skipped Service:**

The Waste Management Services contractor will be responsible to pick up any/all miscellaneous litter and debris, which spills out of or around the waste container. This is a function of their waste and emergency pick-up services. The Contractor will inform the Property Manager and/or Environmental Specialist of any problems that hinder the

pick up of VERIZON waste. This may include; cars or other items blocking the container locked entrance gates and missed scheduled pick-ups. Additionally, the Contractor shall call in the incident to 1-888-696-3973.

#### 15) Security:

- a) The Waste Management Services contractor will be responsible to re-lock any/all waste and/or recyclable containers and/or compactors after they complete their waste pick-up service.
- b) The Waste Management Services contractor will be responsible to re-lock any/all VERIZON owned and/or leased fences, gates, and other appurtenances which were passed through by the Waste Management contractor in order to provide their waste pick-up service.

#### 16) Meetings:

The Waste Management Services contractors awarded a contract will be expected to attend periodic reviews and scheduled meetings as required by VERIZON.

#### 17) Residential Abutter Noise Control:

The Waste Management Services contractor will schedule their pick-up service so as to ensure that any/all residential abutters, if any, are not disturbed whatsoever by the Waste Management Services contractor's waste containers and/or compactors pick-up service. At the time of contract implementation the locations with specific requirements were specified as such in the Fee Schedule building lists, i.e. 185 Franklin in Boston. Should other buildings require such scheduling requirements, a Special Requirements section may be added to the agreement as a means of documenting such buildings and their requirements.

#### 18) Environmental Spills:

The Waste Management Services contractor will notify VERIZON of any/all environmental spills, which occur on VERIZON property. The Contractor shall immediately notify the VERIZON Property Manager and log the incident by calling 1-888-696-3973. VERIZON shall be responsible to clean up any/all environmental spills, which are caused by VERIZON owned equipment and/or vehicles. The Waste Management Services contractor shall be responsible to clean up any/all environmental spills, which are caused by the Waste Management contractor's owned equipment and/or vehicles.

#### 19) VERIZON - Location List, (included as part of the fee schedule sheets)

This list represents all locations in this area where VERIZON Corporate Real Estate requires waste management equipment. The following information is provided for the contractor's use:

Location-	City or Town
Address-	Street Address
County-	County within state (if applicable)
Bid Area-	All locations designated with the same number must be bid on as one group (if applicable).

- a) Building Type-
  - CO- Central Office, mainly telecommunications equipment space, some office space.
  - GAR- Garage, central location for motor vehicles associated with construction, installation, repair, interior parking area, some office space.
  - PWC- Plant Work Center similar to a garage, but without interior parking, Houses outside plant support groups. Large administrative centers.



- CWC- Construction Work Center, similar to garage, but without interior parking, houses construction support groups and heavy construction equipment, large administrative center.
  - PK-Parking Lot
  - OFF- Office, administrative and support groups.
- b) Cont. Type-
- WT- Trash container for wet trash and mixed office waste.
  - COMP-T Trash Compactor
  - R-GPA Recycle container for Glass and plastic bottles and aluminum cans
  - R-WD Recycle container for wood only
  - TB- Tree Bin
  - FEL - Front End Loader
  - RL - Rear Loader
  - C - Container (either FEL or RL)
  - RO - Roll Off
  - OT - Open Top
- c) Cont. Size- Size of the container to be placed and maintained by the contractor. If container type is TB, the size is the approximate size of the tree bin.
- d) No. of Cont.- The number of containers of that type and size that the contractor is to place and maintain at the location.
- e) Pick-up Frequency- Schedule of Pickups-
- WK- Week
  - MO- Month
  - OC- On-Call
  - EOW- Every other Week
  - EOM- Every other Month
- f) Special Requirements – Will be included if applicable. Some special requirements may be incorporated into the pricing sheets, i.e. pick up times.

## **Attachment E**

## AGREEMENT FOR THE PURCHASES OF SERVICES

THIS AGREEMENT by and between Safety-Kleen Systems, Inc, and it's subsidiaries, a corporation organized under the laws of Wisconsin with an office at 1301 Gervais Street, Suite 300, Columbia, South Carolina 29201 (hereinafter called "Safety-Kleen"), and TELESECTOR RESOURCES GROUP, INC., on behalf of itself and its affiliates, a Delaware corporation with offices at 240 East 38th Street, New York, New York 10016, (hereinafter called "VERIZON").

### 1.0 SCOPE OF AGREEMENT

1.1 Scope. This Agreement sets forth the terms and conditions that will govern Safety-Kleen's sale to VERIZON of the Services described in the Scope of Work attached hereto as Attachment A hereto. This is an "as-ordered" agreement which means that it covers Services as they are ordered by VERIZON. VERIZON is not promising to purchase any quantity of Services from Safety-Kleen. When a VERIZON Affiliate uses Safety Kleen's services **THROUGH THE ISSUANCE OF A ORDER WHICH REFERENCES THIS AGREEMENT**, the references to "VERIZON" herein shall include the respective Affiliates. - Any estimates that VERIZON may have provided to Safety-Kleen are not firm or binding unless otherwise specifically stated in this Agreement. This is not an exclusive dealings arrangement.

1.2 Modifications. VERIZON may, upon ten (10) days prior written notice to Safety Kleen, modify a Scope of Work. Upon such notice Safety Kleen shall have two options, which are: 1) Safety-Kleen shall notify Verizon within thirty (30) days that it shall perform the Services under the new Scope of Work at the same prices or no greater than Safety-Kleen would have charged to perform the Services under the old Scope of Work. VERIZON will include any proposed price decrease with its Notice. 2) If Safety-Kleen is not willing to perform the Services under the new Scope of Work at the same (or lower) price, Safety-Kleen shall, within thirty (30) days of its receipt of notice of the new Scope of Work, inform VERIZON in writing of Safety-Kleen's required price. Upon receipt of such notice VERIZON may at its option: (a) accept Safety-Kleen's price; (b) retract the new Scope of Work; or (c) terminate the Agreement upon thirty (30) days' notice.

1.3 VERIZON Affiliates. "Affiliate" means, at any time, and with respect to any corporation, person or other entity, any other corporation, person or entity that at such time, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first corporation, person, or other entity. As used in this definition, "Control" means (a) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a corporation, person or other entity, whether through the ownership of voting securities, or by contract or otherwise, or (b) direct or indirect ownership in the aggregate of twenty percent (20%) or more of any class of voting or equity interests in

the other corporation, person or entity. Affiliate shall also include those companies identified in EXHIBIT D entitled "AFFILIATES", which may be changed by Customer upon written notice.

**1.4 Rights Entitled to VERIZON Affiliate.** A VERIZON Affiliate that uses any Service shall be entitled to all of the rights and benefits afforded to VERIZON as well as the obligations required of VERIZON under this Agreement and may enforce this Agreement in its own name. When a VERIZON Affiliate uses Safety-Kleen's services, the references to "VERIZON" herein shall include the respective Affiliate. All obligations of VERIZON herein shall inure to such Affiliate and Safety-Kleen shall have the right to enforce such obligations against the Affiliate.

## **2.0 TERM OF AGREEMENT**

**2.1 Term.** The initial term of this Agreement shall be from January 1, 2002 to December 31, 2007. This Agreement shall continue in force from year to year thereafter under the same terms and conditions (pricing excluded), unless or until terminated by one of the parties in accordance with the provisions of this Agreement. Any pricing changes must be communicated in writing 60 day prior to the term of the agreement. After review of the pricing, VERIZON will evaluate the need to continue business with Safety-Kleen.

**2.2 Existing Purchase Orders Continue.** The termination or expiration of this Agreement shall not affect the obligations of either party to the other under existing orders issued under this Agreement (except to the extent orders are terminated or modified in accordance with the Section titled "PURCHASE ORDERS"), but such orders shall continue in effect as though this Agreement had not been ended.

## **3.0 Billing Procedure:**

**3.1 Billing Contents.** VERIZON shall order Services by verbal notification, or fax. The invoice or statement must reference this Agreement SOW and pricing, and contain the following information: the Service performed; volume of waste removal, the time and place of performance; (garage locations) the date of the PO; the billing address; the name and telephone number of the VERIZON employee for Safety-Kleen to contact regarding the Services; and any special terms and conditions relevant to the particular PO (Special terms are those that are not preprinted. See the Section below titled "ENTIRE AGREEMENT"). Safety-Kleen agrees that it will accept or reject (if rejection is allowed) any PO within ten (10) days of its receipt by Safety-Kleen. Safety-Kleen further agrees that if VERIZON does not receive acceptance from Safety-Kleen of a PO within this ten (10) day period, VERIZON may consider such failure as rejection of the PO.

**3.2 Right to Cancel.** VERIZON shall, by giving Safety-Kleen written or verbal notice, cancel all or part of an order at any time prior to Safety-Kleen's completion of the

Services. VERIZON's liability to Safety-Kleen for the entire transaction shall be limited to the prorated value of the Services Safety-Kleen has performed.

3.3 Change Order. VERIZON shall, by issuing a written document labeled as a "Change Order," make changes to the Services it has ordered. If the change alters the value of the Services ordered, Safety-Kleen shall promptly notify VERIZON and Safety-Kleen shall adjust the price accordingly. Safety-Kleen shall notify VERIZON within thirty (30) business days of Safety-Kleen's receipt of a Change Order if the Change Order will cause an increase in price and will provide a detailed price increase within thirty (30) days. VERIZON, may, at its discretion, agree to the increased price or withdraw the underlying Change Order.

#### 4.0 SPECIFICATIONS

4.1 Specifications. Safety-Kleen shall perform all Services in compliance with the highest standards of the industry, all government standards and specifications, as well as any standards and specifications that Safety-Kleen has published (unless previously rejected by VERIZON), including, but not limited to, the Specifications set forth in Attachment No. A.

4.2 Nonconformity. If at any time (including after Safety-Kleen has completed the Services) Verizon discovers that the Services Safety-Kleen performed under this Agreement were not in compliance with this Agreement or that the manner in which the Services were performed could pose a threat to the health or safety of any person, the environment, the VERIZON Network or any VERIZON property, Safety-Kleen shall, in addition to any other remedy permitted by this Agreement or by law, promptly notify VERIZON and remedy the nonconformity at Safety-Kleen's sole expense..

#### 5.0 WORK CONDITIONS

5.1 Fully Informed. By executing this Agreement and by accepting a PO. Safety-Kleen acknowledges that Safety-Kleen is fully informed as to the potential nature and location of the Services, the potential physical, climatic and other conditions prevailing at a worksite, and all other matters which may affect the Services, the cost thereof and the time for performing the work. Safety-Kleen confirms that it has investigated all of the conditions to which Safety-Kleen's employees, subcontractors and agents will be exposed in performing the Services, and has properly trained all such persons accordingly. If a PO requests that Safety-Kleen performs services for which Safety-Kleen is not fully informed, Safety-Kleen must notify VERIZON prior to accepting the PO. Notwithstanding the above or anything else herein to the contrary, should Safety-Kleen encounter concealed conditions, or unknown conditions at variance with the conditions indicated by the contract documents and Safety-Kleen's reasonable inspection, or should Safety-Kleen encounter conditions that differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in

this contract, the contract price shall be equitably adjusted by change order in accordance with the provisions of 3.3 above.

5.2 Asbestos. Asbestos-containing material and materials presumed to contain asbestos (collectively "ACM") have been identified in many VERIZON buildings. The location and quantity of ACM in any VERIZON building is in the "VERIZON ASBESTOS ASSESSMENT Report" for that building. This report can be obtained from the building's property manager or the One-Call Center at 1-800-386-9639. Before Safety-Kleen begins any "construction" activity, as defined by 29 CFR 1926.1101, in a VERIZON facility, it is Safety-Kleen's responsibility to review the report for that building and share that information with any of Safety-Kleen's employees who will be entering that building. If asbestos may be disturbed by Safety-Kleen's work Safety-Kleen must immediately notify the One Call Center and select option 4, and stop work in that area. Safety-Kleen may not, under any circumstances disturb asbestos or perform asbestos abatement work in a VERIZON facility. If Safety-Kleen disturbs or removes any ACM, Safety-Kleen shall immediately notify the VERIZON Area Fleet Manager responsible for that property or the One Call Center at the telephone number noted in this Section.

## 6.0 LOCATION AND TIME OF PERFORMANCE

6.1 Location and Due Dates. Safety-Kleen shall perform the Services at the locations specified in the Scope of Work, or, if different, in the applicable PO on the dates requested. VERIZON shall not be obligated to accept any untimely, excessive or incomplete performance. Services shall be scheduled at times mutually agreeable between the parties.

6.2 VERIZON Premises. If Safety-Kleen is to perform the Services on VERIZON's premises or on the premises of a third party, Safety-Kleen's schedule for performing the Services shall be mutually agreed upon by both parties.

6.3 Access to Premises VERIZON grants to Safety - Kleen , its agents and employees reasonable access to VERIZON's premises for purposes of fulfilling its obligations under this Agreement. Safety-Kleen shall comply with VERIZON's safety procedures while on VERIZON's premises, which are provided in writing to Safety-Kleen. VERIZON warrants that any right-of-way provided by VERIZON to/from VERIZON's premises to/from the most convenient public way, is sufficient to bear the weight of all Safety-Kleen equipment and vehicles reasonably required to perform the Services. Safety-Kleen shall not be responsible for damages caused to any private pavement or accompanying subsurface of any route reasonably necessary to perform services.

## 7.0 PRICE

7.1 Prices. The price(s) for the Services are set forth in Attachment C.

ORIGINAL  
(Red)

7.2 Firm. The price(s) shall be firm for the Initial Term of this Agreement except that Safety-Kleen may at any time decrease the prices. Safety-Kleen agrees that if Safety-Kleen's list price or the price later offered to VERIZON for a Service is lower than the stated price, then the stated price shall be lowered for all Services provided from that point forward.

7.3 Inclusive Prices. The prices specified in this Agreement are the total prices and there shall be no other charges whatsoever. Unless otherwise specified, the prices set forth in this Agreement or in a PO include all incidental costs, including transportation, entertainment and the use of all necessary tools, products and equipment. The prices include all taxes unless otherwise noted on future price quotes except those which Safety-Kleen is required by law to collect from VERIZON. Safety-Kleen is responsible for all of Safety-Kleen's own overhead, equipment, tools, telephone calls, transportation, materials and any costs of any nature unless this Agreement specifically provides otherwise. Safety-Kleen may not charge VERIZON for overtime work unless VERIZON authorized the overtime work in writing in advance.

7.4 Lowest Cost Materials. If the Scope of Work requires Safety-Kleen to procure products or materials at the expense of VERIZON, Safety-Kleen agrees to make all purchasing decisions based on meeting the needs of VERIZON at the lowest possible cost. VERIZON may, in its discretion, direct Safety-Kleen to purchase the products or materials from a mutually agreed Contractor, or to purchase the products or materials after utilizing a competitive process. All such products or materials shall be provided to VERIZON on a pass-through basis with no mark up

## 8.0 INVOICES AND NOTICES

8.1 Invoicing; Right to Set Off. Safety-Kleen shall send invoices on a monthly basis. Safety-Kleen shall send the invoices to the VERIZON Area Fleet Manager in charge of the region, indicated in Attachment C, who is responsible for payment. or, if different, to the Verizon representative stated on the applicable PO. VERIZON shall pay the invoices within thirty (30) days from the date it receives the invoice. If VERIZON disputes all or any portion of an invoice, it shall be required to pay only the amount not in dispute. If Safety-Kleen's invoice contains terms more favorable to VERIZON, VERIZON may elect to pay on those terms. Upon reasonable prior notice, VERIZON shall be entitled to set off any amount Safety-Kleen owes it against amounts payable under this agreement. Payment by VERIZON shall not result in a waiver any of its rights under this Agreement.

8.2 Invoice Contents. The invoice shall contain: (a) a description of the Services provided; (b) the time period covered; (c) the basic price for the; (d) listing all applicable taxes as well as all other associated costs (if specifically allowed under this Agreement) as a separate line item on invoices; (e) the PO Number; and (f) any other information specified in the PO. If an invoice is missing such information, it is incomplete, and not in proper format for payment, Verizon shall notify Safety Kleen within ten (10) days of

receipt of the incomplete invoice, in order for Safety Kleen to resubmit a corrected and complete invoice. Verizon shall not process any incomplete invoices.

8.3 Non-Conforming Waste Charge. Safety-Kleen reserves the right to assess a Non-Conforming Waste charge for any Waste it determines to be a "Non-Conforming Waste". The definition of a "Non-Conforming Waste" is stated below in the section of this Agreement entitled "NON-CONFORMING WASTE". Safety Kleen shall give Verizon notice of such "Non-Conforming Waste" prior to Safety-Kleen performance of such services with additional fees. Unless otherwise set forth in a mutually agreed to and signed document if transportation is provided by Safety-Kleen, shipping terms are as provided for in the section of this Agreement entitled "TITLE."

## 9.0 AUDITS AND REPORTS

9.1 Records. Safety-Kleen shall maintain, in accordance with standard recognized accounting practices, accurate and complete records that enable Safety-Kleen to demonstrate full compliance with this Agreement. These records shall be maintained for a period of six (6) years after this Agreement terminates or expires. . Safety-Kleen shall allow VERIZON and its authorized agents and representatives to audit these records, upon reasonable prior notice, during normal business hours, at any time during the term of this Agreement and the six year period after this Agreement terminates or expires.. VERIZON shall be entitled to a refund for all amounts that the audit report finds VERIZON overpaid Safety-Kleen. VERIZON shall bear the cost of these audits unless it is determined that Safety-Kleen overcharged VERIZON during the period of time for which the records were audited

9.2 Substantiating Firm Prices. Where firm prices are given, VERIZON's audit shall be limited to substantiating invoiced charges. Notwithstanding the foregoing, nothing contained herein or elsewhere in this Agreement shall require Safety-Kleen to disclose to VERIZON or permit VERIZON to examine proprietary or confidential information, unless required by governmental or regulatory agency, or court order, and such disclosure shall be according to a signed non-disclosure agreement between the parties.

9.3 Reports. Safety-Kleen agrees to complete and return to VERIZON any agreed upon Report Forms at agreed upon intervals as stated in Statement of Work (SOW) Safety-Kleen receives from VERIZON. VERIZON may require Safety-Kleen to include in the reports the number of hours worked, the locations where Services were performed, and any other information reasonably related to the Services, not be less than once a business quarter (four (4) times a year). Safety Kleen to return the completed report within thirty (30) days upon its receipt.

## 10.0 ACCEPTANCE



10.1 Inspection, Rejection, etc. All Services are subject to the inspection and acceptance or rejection by VERIZON or its agent during performance and after completion of the Services. If the Services do not conform with the requirements of this Agreement or an applicable PO, VERIZON, in addition to any other rights it may have under law or this Agreement, may reject any Services, in whole or in part, not performed in accordance with the specifications of this Agreement and the applicable PO. Safety-Kleen shall re-perform the services within thirty (30) days at no additional cost, or alternately credit VERIZON for such Services or refund VERIZON if VERIZON has already paid for such Services, as applicable. If VERIZON reasonably believes that Safety-Kleen cannot or will not be able to properly perform the Services in the time frame specified in this Agreement, VERIZON has the right to have another party correct or complete the Services, with increase in costs being borne by Safety Kleen..

10.2 Refund. If VERIZON has paid Safety-Kleen for all or part of the Services that are ultimately rejected or not accepted by VERIZON, or if VERIZON later determines that Safety-Kleen's performance of Services was performed in a manner that breached the terms of this Agreement, Safety-Kleen shall (in addition to any other remedy available to VERIZON) return to VERIZON all amounts paid for such Services.

10.3 No Waiver. Neither the acceptance of Services nor the payment of any invoice shall constitute a waiver of any breach of this Agreement by Safety-Kleen. Moreover, all warranty and indemnity rights shall survive acceptance of and payment for the Services.

#### 11.0 OWNERSHIP OF SAFETY KLEEN MATERIALS

11.1 Ownership. It is expressly agreed that Safety-Kleen shall at all times retain title to its solvents used in its Parts Washer Service. Safety-Kleen shall also retain title to any equipment (including, without limitation, parts cleaning machines or paint spray gun cleaning machines), except where VERIZON previously owned the machine (COMS Service). Terms and Conditions pertaining to Title are covered in Section of this Agreement entitled "TITLE."

#### 12.0 INDEPENDENT CONTRACTOR

12.1 Independent Contractor. Safety-Kleen shall perform the Services as an independent contractor, and not as an employee, joint venturer, partner or agent of VERIZON or any VERIZON Affiliate. Safety-Kleen shall not make any representation to the contrary to any person. Safety-Kleen may not bind, or attempt to bind, VERIZON or any VERIZON Affiliate to any obligation with any third parties. In all of Safety-Kleen's activities under this Agreement, Safety-Kleen shall act consistently with Safety-Kleen's status as an independent contractor. VERIZON does not and will not have actual, potential, or any other control over Safety-Kleen, or Safety-Kleen's employees or agents, except as is otherwise expressly set forth in this Agreement. Safety-Kleen shall be entirely responsible for its actions.

12.2 Safety-Kleen's Labor Relations. Safety-Kleen shall be responsible for Safety-Kleen's own labor relations with any labor organization and Safety-Kleen shall not purport to bind VERIZON (including VERIZON Affiliates) to any labor union. Safety-Kleen is responsible for supervising and directing the work of Safety-Kleen's employees and contractors and for ensuring that all of Safety-Kleen's employees, contractors and subcontractors comply with the terms and conditions of this Agreement.

13.3 Safety-Kleen's Employees. Safety-Kleen is responsible for assuring that all of Safety-Kleen's employees are paid on a timely manner. Safety-Kleen is also responsible for withholding or causing Safety-Kleen's subcontractors (if any) to withhold, all Federal, state and local income, social security, unemployment, excise, payroll and all other taxes or charges required by law to be withheld from compensation of such individuals performing Services. Safety-Kleen is also responsible for all employment taxes and withholdings. Safety-Kleen shall timely pay or cause to be paid such taxes or charges to the appropriate governmental agencies. Safety-Kleen is also responsible for all workers' compensation benefits, premiums and other similar charges. Persons furnished by Safety-Kleen under this Agreement shall not be entitled to any benefits that VERIZON provides to its own employees and Safety-Kleen shall indemnify VERIZON against any claims alleging that any of Safety-Kleen's employees or contractors are employees of VERIZON or are entitled to VERIZON benefits.

#### 14.0 TOOLS AND EQUIPMENT

14.1 Safety-Kleen to Provide. Safety-Kleen shall provide all labor, tools, materials and equipment ("tools") necessary for performing the Services.

14.2 VERIZON Tools; VERIZON DISCLAIMER OF WARRANTIES. If Safety-Kleen uses any tools owned, paid for or rented by VERIZON or any VERIZON Affiliate, Safety-Kleen agrees that the tools or equipment are provided "AS IS." VERIZON EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE. It is Safety-Kleen's responsibility to inspect the tools to ensure that they are fit for use. Safety-Kleen may not remove these tools from the work premises without the written permission of VERIZON. Safety-Kleen shall be responsible for any damages or injuries resulting from Safety-Kleen's use of the tools in accordance with the clause titled "Indemnification." All of VERIZON's tools shall be returned when Services are completed.

14.3 Molds. VERIZON shall own any molds made to allow Safety-Kleen to perform under this Agreement.

#### 15.0 HAZARDOUS PRODUCTS OR COMPONENTS

15.1 No Hazardous Products. It is understood that Safety-Kleen's transportation equipment used for collection of Wastes may already contain Hazardous Products from

previous collections, and that this section shall apply to the extent any Hazardous Products are present aboard such equipment and do not leave the equipment: Safety-Kleen shall refrain, to the extent possible, from bringing any toxic or hazardous products onto the premises of VERIZON or its Affiliates. Safety-Kleen agrees to notify VERIZON in writing and to supply an appropriate Material Safety Data Sheet (MSDS) to VERIZON and the on-site representative of if any material used in the performance of Safety-Kleen's Services, or to which any employee or other person not employed by Safety-Kleen may be exposed, is considered toxic or hazardous under any federal, state or local law or if the product is capable of constituting a health or safety hazard. Safety-Kleen shall be responsible to ensure that materials used in the performance of Safety-Kleen's Services, or to which any VERIZON employee or other person not employed by Safety-Kleen may be exposed, display all reasonable notices and warnings of foreseeable hazards. Safety-Kleen is responsible for removing and, if the materials become waste materials, for properly disposing of, all hazardous materials. Safety-Kleen agrees that, Safety-Kleen will comply with VERIZON's procedures for the removing and disposing of hazardous materials and wastes provided in the PO or otherwise in advance of collection.

15.2. No-Mixing and Consistency of Process. If Safety-Kleen provides its non-hazardous parts cleaner or non-hazardous fluid recovery Services to VERIZON hereunder, the fluid: (i) has not been mixed, combined or otherwise blended in any quantity with material containing PCBs or any other material which would render the solvent and/or Waste hazardous under applicable laws, including without limitation 40 CFR Part 261, and (ii) has been produced in the same process as the process that produced the material described in the relevant Supporting Documents.

15.3 Signed Manifests and Cycle Time. Safety Kleen shall provide the Verizon Fleet Area manager with signed Manifests for the Materials. The signed Manifest shall be mailed back to the Verizon garage location as soon as reasonably possible but no later than the time frame required by law. The Verizon manager shall maintain the signed copies at the garage location.

## 16.0 WARRANTIES

16.1 Safety-Kleen Warranties. Safety-Kleen warrants that its will perform the Services in a professional and workmanlike manner in full accordance with this Agreement, applicable laws and the highest standards of the industry. Safety-Kleen warrants that no product, material or Service Safety-Kleen provides results in a third party's intellectual or other right being infringed. If Safety-Kleen uses any subcontractors, Safety-Kleen warrants that Safety-Kleen will pay all subcontractors for their work and Safety-Kleen shall not allow any liens to be placed upon VERIZON property provided however that Safety-Kleen shall not be prevented from claiming, filing or enforcing any liens when the rights thereto arise from VERIZON's or its Affiliates' failure to pay monies owed to Safety-Kleen. VERIZON grants the opportunity to cure 10 60 days, whenever monies are owed. Any discrepancies will be reviewed by VERIZON management with cure. If any products or materials are supplied as part of the Service

Safety-Kleen warrants that they are free from defects in materials and workmanship and they are merchantable and fit for their intended uses. Safety-Kleen shall also, to the extent possible, pass along to VERIZON any manufacturer's warranties covering any products and materials. These warranties are in addition to all other warranties, express, implied or statutory. VERIZON shall not, by paying for or accepting Services, waive any of its warranty rights.

16.2 Breach of Warranty. VERIZON may, without limiting any of its other rights under this Agreement or at law, require Safety-Kleen to re-perform Services and replace materials and products which do not meet an applicable warranty. Safety-Kleen shall also be responsible for any costs, expenses, and damages, to the extent caused by the failure of a product, material or Service to comply with any of the warranties

16.3 VERIZON Representations and Warranties. VERIZON warrants and represents:

- a. If Safety-Kleen provides its parts washer Services to VERIZON hereunder, VERIZON shall not mix the solvent provided by Safety-Kleen under such Services with other materials (including without limitation materials containing polychlorinated biphenyls ("PCBs") or otherwise alter the characteristics of the solvent;
- b. If Safety-Kleen provides its non-hazardous parts cleaner or non-hazardous fluid recovery Services to VERIZON hereunder, the fluid: (i) has not been mixed, combined or otherwise blended in any quantity with material containing PCBs or any other material which would render the solvent and/or Waste hazardous under applicable laws, including without limitation 40 CFR Part 261, and (ii) has been produced in the same process as the process that produced the material described in the relevant Supporting Documents;
- c. VERIZON is and will remain in full compliance with all requirements of applicable laws, regulations and orders relating to the Waste;
- d. The Waste Description given to Safety-Kleen is true, accurate and complete and Waste tendered or delivered to Safety-Kleen will conform to the Waste Description applicable thereto;
- e. VERIZON is under no legal restraint or order which would prohibit transfer of possession or title to the Waste it tenders to Safety-Kleen or prohibit the Services provided by Safety-Kleen related to such Waste; and
- f. If VERIZON is responsible for packaging and marking the Waste; the Waste shall be described, coded, packaged and labeled in accordance with all applicable regulations, rules, laws and orders;

17.0 Indemnification and Limitation of Liability.

- 17.1 Safety-Kleen agrees to indemnify, hold harmless and defend VERIZON from and against any and all liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto (including costs of defense, settlement and reasonable lawyers' fees, consultant or other professional fees and the reasonable costs of investigation, containment and cleanup and any remedial actions required by law, regulation or order, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or comparable state superfund law), which it may hereafter incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations or orders, to the extent that such damage was caused by: (i) Safety-Kleen's breach of any term or provision of this Agreement; (ii) the failure of any representation or warranty of Safety-Kleen to be true, accurate and complete; or (iii) any negligent act or omission or willful misconduct of Safety-Kleen or its employees or agents.
- 17.2 Except for materials which have been accepted by Safety Kleen, VERIZON agrees to indemnify, hold harmless and defend Safety-Kleen from and against any and all liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto (including costs of defense, settlement and reasonable lawyers' fees, consultant or other professional fees, which it may hereafter incur, become responsible for, or pay out as a result of death or bodily injury to any person destruction or damage to any property while on VERIZON premises, or any violation of governmental laws, regulations or orders, to the extent that such damage was solely caused by: (i) VERIZON's breach of the terms or provisions of this Agreement or (ii) any negligent act or omission or willful misconduct of VERIZON or its employees or agents.
- 17.3 Notwithstanding the above, neither party will be responsible to the extent that an injured employee of a party has been compensated pursuant to the Worker's Compensation Laws.
- 17.4 To the extent that the death, injury or property damage is the result of a joint breach of this Agreement by the VERIZON and Safety-Kleen or any joint negligence, joint misconduct or joint fault of VERIZON and Safety-Kleen, the amount of the damage for which a party is entitled to indemnification shall be limited to that portion of such damage that is attributable to the breach, negligence, omission or willful misconduct of the other party.
- 17.5 In no event shall either party be liable for any special, indirect, incidental or consequential damages, whether based in contract, warranty, indemnity or tort, negligence or strict liability.
- 18.0 INSURANCE

18.1 Insurance Requirements. Safety-Kleen shall secure and maintain at its expense during the term of this Agreement, naming VERIZON AND IT'S AFFILIATES as additional insured: (i) Workers' Compensation- Statutory limits and Employers Liability with limits of \$5,000,000 per occurrence; (ii) Commercial General Liability insurance, including but not limited to, products liability and completed operations, contractual liability, independent contractor, for a combined single limit of \$5,000,000. per occurrence for bodily injury and property damage \$10,000,000 annual aggregate; (iii) Comprehensive Automobile Liability insurance and (MCS-90 Motor Carriers Act of 1980 endorsement) covering all owned, non-owned and hired vehicles for a minimum combined single limit of \$5,000,000 per occurrence; (iv) Pollution Legal Liability - Sudden and Accidental and Gradual (Safety-Kleen sites and Safety-Kleen approved disposal sites) not limited to intellectual property coverage, in a minimum amount of \$5,000,000 per occurrence, and (v) Contractor's Environmental Pollution Liability - Sudden and Accidental (Safety-Kleen professional and contracting operations) \$5,000,000 per occurrence, \$10,000,000 annual aggregate. All insurers must be licensed to do business in the state in which the work is performed and must have Bests Rating "AX" or better. Safety-Kleen agrees to include VERIZON Corporation and Telesector Resources Group and its affiliates, Inc. as additional insured(s) on (ii, iii, and deliver a certificate of insurance evidencing the above prior to the work being performed. It is also agreed that ~~he extent Safety-Kleen is at fault or deemed to be at fault~~ the above insurance coverage is primary and must be kept in force during the term of this Agreement. Furthermore, VERIZON must receive at least thirty (30) days' notice of cancellation or modification of the above insurance. With the prior approval of Verizon, the limit requirements for Commercial General Liability, Automobile Liability and Employers Liability policies may be satisfied through a combination of primary and umbrella policies, without gaps in limits and with coverage as broad as the underlying policy.

18.2 No Limitation. Safety-Kleen is responsible for determining whether the above minimum insurance coverages are adequate to protect its interests. The above minimum coverages do not constitute limitations upon Safety-Kleen's liability.

18.3 Endorsements. The policies referred to (in ii and iii) above shall contain an endorsement naming VERIZON as an Additional Insured and eliminating and removing any exclusion of liability for i) injury, including bodily injury and death to an employee of the insured or of VERIZON, or ii) any obligation of the insured to indemnify, hold harmless, defend, or otherwise make contribution to VERIZON because of damage arising out of injury, including bodily injury and death, to an employee of VERIZON.

## 19.0 FORCE MAJEURE

19.1 Not Liable. Neither party shall be liable for defaults or delays due to any causes (such as without limitation strikes, wars, terrorism, acts of sabotage or natural disasters that are beyond its control and that are not due to its acts or omissions ("Force Majeures").

19.2 Notice and Options for Other Party. Each party shall promptly notify the other in case of a Force Majeure occurrence within five days after the beginning thereof, and the party receiving notice may, by providing notice to the other party at any time during the period covered by the Force Majeure, extend the time for performance, or cancel all or any unperformed part, of this Agreement.

## 20.0 TERMINATION

20.1 VERIZON Right to Terminate. VERIZON may terminate this Agreement as follows: (i) immediately upon notice in response to regulatory or legal concerns or any concerns that activities under this Agreement may endanger the health or safety of a person, the environment or the VERIZON network; (ii) at any time upon thirty (30) days notice; or (iii) immediately upon notice for cause as follows: (a) for failure to perform, if VERIZON first gave Safety-Kleen notice of breach and an opportunity to cure in seven (7) days, or (b) based on VERIZON's belief that Safety-Kleen has engaged in illegal, criminal or fraudulent conduct in connection with services performed or to be performed under this Agreement, or (c) the failure to pay its subcontractors or employees providing services under this Agreement or (d) a change in control, or liquidation or insolvency of Safety Kleen. Upon termination for cause, Safety-Kleen shall not be entitled to further payments under this Agreement, and for a material breach, Safety-Kleen shall immediately refund all amounts it received for the applicable Services.

20.2 Existing POs/SOWs. Any termination of this Agreement will not terminate the parties' obligations to each other under existing POs/SOWs unless VERIZON or Safety-Kleen specifically terminates such PO/SOW.

20.3 Safety-Kleen Right to Terminate. Safety-Kleen may terminate this Agreement and/or any purchase or work order without cause in the event that VERIZON fails to meet its payment obligations, after being granted a least 30 days from written notice to cure such failure upon sixty (60) days prior written notice to VERIZON or, if applicable its Affiliate, immediately if VERIZON or its applicable Affiliate is adjudicated insolvent, seeks any remedy for itself under any present or future law related to bankruptcy, insolvency or other relief for debtors. Termination as set forth above shall be without prejudice to any other remedy Contractor may have and shall not affect the parties' uncompleted obligations, including payment for services rendered by Contractor.

## 21.0 GOVERNMENT CONTRACTS

21.1 Additional requirements. If Safety-Kleen is provided the information in the applicable PO that a Service is being purchased, directly or indirectly, to satisfy a contract of the United States Government or any State or other governmental authority, all terms and conditions required by law, regulation or by Government Contract with respect to the Services are incorporated herein by reference provided that the relevant Government Contract conditions are provided in writing to Safety-Kleen prior to its quotation for or

commencement of the work. In particular, Safety-Kleen agrees to comply with all Equal Employment Opportunity Requirements.

## 22.0 ADVERTISEMENTS AND USE OF TRADEMARKS

22.1 Prohibitions and Restrictions. Safety-Kleen shall not, without the prior written consent of VERIZON, advertise or publish the fact that Safety-Kleen has furnished, or contracted to furnish, the Services. Safety-Kleen shall not use any trademark, tradename, trade dress or any name, picture or logo which is commonly identified with VERIZON or any VERIZON Affiliate without the express written permission of VERIZON.

22.2 Product Markings. If VERIZON requires or allows Safety-Kleen to place any marking or name on materials or products, Safety-Kleen shall completely remove any such marking or name from any material or product which is not sold to and accepted by VERIZON

## 23.0 INFORMATION AND INTELLECTUAL PROPERTY

23.1 Information Defined. The term "Information" includes: programs and related documentation, specifications, drawings, models, technical and business data and plans; works of authorship and other creative works; and ideas, knowledge and know-how. Information may be transmitted in writing (or other tangible form) or orally.

23.2 No Safety-Kleen Confidential Information. No Information Safety-Kleen provides to Verizon (even if labeled or otherwise designated as proprietary or confidential) shall be considered by either party to be confidential or treated by Verizon as being confidential or proprietary to Safety-Kleen, unless the Information was provided to Verizon under a mutual non-disclosure Agreement executed by the parties.

23.3 VERIZON Information. Information that VERIZON furnishes to Safety-Kleen or that Safety-Kleen otherwise comes into contact with under this Agreement will remain VERIZON property. Safety-Kleen will return such Information to VERIZON upon termination of the Agreement or at VERIZON's earlier request. Unless such Information was previously known to Safety-Kleen free of any obligation to keep it confidential or is made public by VERIZON or a third party without breach of any agreement, or is required to be revealed by operation of law Safety-Kleen will keep the Information confidential and use it only in performing this Agreement.

23.4 Work Product. The entire right, title and interest in all edits, original inventions and works of authorship created by Safety-Kleen, or on Safety-Kleen's behalf, for deliver to VERIZON for which VERIZON specifically compensates Safety-Kleen in relation to the Services shall be transferred to and vested in VERIZON. All such works shall be considered to be made for hire. Safety-Kleen agrees to provide documentation and to sign all documents prepared or supplied by VERIZON which VERIZON believes are



necessary to ensure the conveyance of all such right, title and interest, including patent, trademark and copyright, to VERIZON.

23.5 No Safety-Kleen Licenses. VERIZON does not grant Safety-Kleen any license, express or implied, under any patent, copyright, trademark, trade secret or otherwise, except for the sole purposes of Safety-Kleen's performance of this Agreement.

#### 24.0 COMPLIANCE WITH LAWS

24.1 Safety-Kleen Obligations. Safety-Kleen agrees, in connection with the performance of this Agreement, to comply with all applicable federal, state or local laws and regulations, including, but not limited to, all applicable requirements of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued thereunder, the Federal Occupational Safety and Health Act and with all rules and regulations issued thereunder, and the Foreign Corrupt Practices Act of 1977, as amended. Safety-Kleen agrees that it will not discriminate against any employee or applicant for employment on account of race, color, religion, sex, disability or national origin and will comply with the terms of the Non-Discrimination Compliance Undertaking attached as Attachment B hereto and made a part of this Agreement. Safety-Kleen has, and shall maintain during the term of this Agreement, all known permits or other appropriate records that may be required by law. Notwithstanding any other provisions of this Agreement, Safety-Kleen shall not export, directly or indirectly (including to foreign nationals present in the United States), any United States source technical data to any country outside the United States which export may be in violation of the United States Export Control Laws and Regulations.

#### 25.0 PLANT RULES

25.1 VERIZON Rules. Safety-Kleen is responsible for ensuring that all of Safety-Kleen's employees, agents, subcontractors or other persons furnished by Safety-Kleen (a) comply with all plant rules, regulations and security procedures of any facility in which Services are performed and which are provided in writing to Safety-Kleen in advance of performance (b) work in harmony with all others working at any facility where Services are performed. Upon completion of the work, Safety-Kleen shall remove promptly all Safety-Kleen implements, surplus materials and project created debris from the premises.

#### 26.0 WORK PERFORMED BY OTHERS

26.1 Safety-Kleen Responsible. If any of the Services Safety-Kleen provides are dependent upon work done by others, Safety-Kleen shall inspect and promptly report to VERIZON any defect that renders such work unsuitable for Safety-Kleen's proper performance.

#### 27.0 ASSIGNMENT

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27.1 No Safety-Kleen Assignment. Safety-Kleen may not assign any right or interest under this Agreement or a PO issued pursuant to this Agreement (excepting moneys due or to become due) or delegate any work or other obligation owed by Safety Kleen under this Agreement without first obtaining the written permission of VERIZON, which permission VERIZON shall not unreasonably withhold. Any attempted assignment or delegation in contravention of this section shall be void and ineffective. Any assignment of money shall be void and ineffective to the extent that: (1 Safety-Kleen fails to provide VERIZON at least thirty (30) days prior written notice of such assignment; and (2) such assignment attempts to impose upon VERIZON obligations to the assignee additional to the payment of such money, or to preclude VERIZON from dealing solely and directly with Safety-Kleen in all matters pertaining to the Agreement including, but not limited to, the negotiation of amendments or the settlement of charges due.

27.2 VERIZON Assignment. VERIZON may freely assign all or part of this Agreement.

#### 28.0 GOVERNING LAW

28.1 State Law and Forum. The validity, interpretation and performance of this Agreement shall be governed by the procedural and substantive laws of the state of New York without regard to conflicts of laws. All actions under this Agreement shall be brought in a court of competent subject matter jurisdiction in the County of New York in the State of New York and both parties agree to accept the personal jurisdiction of such court.

#### 29.0 NON-WAIVER

29.1 No Waiver. No course of dealing or failure of either party to strictly enforce any of the terms and conditions of this Agreement shall be construed as a waiver of the future performance of that term or condition.

#### 30.0 SEVERABILITY

30.1 Unenforceable Terms Severed. In the event that one or more provisions contained in this Agreement are for any reason held to be unenforceable in any respect, such unenforceability shall not affect any other term or condition of this Agreement and this Agreement shall be construed as if the unenforceable provision was not contained in this Agreement.

#### 31.0 NOTICES

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31.1 Method. All notices and other communications made under this Agreement shall be effective when received by the other party at the address specified in a PO, or if not specified in a PO, at the address set forth below. Notices must be sent by certified or registered mail (return receipt requested) or to the telecopier number set forth below. The parties may, by providing seven days' written notice, modify the addresses set forth below.

Notices to VERIZON shall be sent to:

VERIZON  
240 East 38th Street 23<sup>rd</sup> Floor  
New York, NY 10016  
Attn: Elaine Schwartz]  
Tel No.: (212) 338-7282 Fax No.: (212)-476-5246

With a copy to:

Maryann Walsh  
Verizon Counsel  
LEGAL Department  
HQE03H36  
600 Hidden Ridge  
Irving, Texas 75038  
FAX No.: 972-718-1251

Notices to Safety-Kleen shall be sent to:

Safety-Kleen Systems, Inc  
920 Davis Road, 4<sup>th</sup> Floor  
Elgin, IL 60123  
Attn: Tom Masters. Director Commercial Corporate Accounts  
Tel No: 800-669-5840, Ext. 3229 Fax No: 847-468-3281

With a Copy to:

Safety-Kleen Systems , Inc.  
1301 Gervais Street, Suite 300  
Columbia, SC 29201  
Attn: Legal Department  
Tel. 803-933-4215 Fax: 803-933-4303

## 32.0 CAPTIONS AND INTERPRETATIONS AND CONSENTS

32.1 Convenience Only. The captions of sections in this Agreement are for convenience only and may not accurately or fully describe all of the requirements of a

section. The captions do not limit or modify the terms of this Agreement or any section of this Agreement.

32.2 Reasonable Consent. Whenever the provisions of this Agreement require one party to obtain the permission or consent of the other party, unless specified otherwise, the party from whom the consent or permission is needed must act reasonably in granting or withholding such consent.

### 33.0 GIFTS AND GRATUITIES AND CONFLICTS OF INTEREST

33.1 Certification. Safety-Kleen certifies that, to the best of Safety-Kleen's knowledge and belief, no economic, beneficial, employment or managerial relationship exists between Safety-Kleen and any employee of VERIZON or VERIZON Affiliates, or between Safety-Kleen and any relative of an employee of VERIZON or any VERIZON Affiliates, which would tend in any way to influence such employee in the performance of his or her duties on behalf of VERIZON or VERIZON Affiliates in connection with the awarding, making, amending or making determinations concerning the performance of this or any other agreement.

33.2 No Gratuities. The exchange or offering of any money, gift item, personal service, entertainment or unusual hospitality by Safety-Kleen to VERIZON and VERIZON Affiliates is expressly prohibited. This prohibition is equally applicable to both party's officers, employees, agents or immediate family members. Any violation of this provision constitutes a material breach of this Agreement.

33.3 VERIZON Right To Terminate. VERIZON may, by written notice to Safety-Kleen, terminate Safety-Kleen's right to proceed under this Agreement without any liability whatsoever on the part of VERIZON if VERIZON finds:

(a.) that Safety-Kleen has violated the certification contained in this section regarding any conflict of interest; or

(b) that gratuities (as discussed in this section) were offered or given by Safety-Kleen, or any of Safety-Kleen's agents or representatives, to any officer or employee of VERIZON or VERIZON Affiliates awarding, making, amending an agreement or securing favorable treatment with respect to the performance of such agreement.

33.4 Remedies. In the event this Agreement is terminated as provided in this section, VERIZON shall be entitled to pursue the same remedies against Safety-Kleen as it could pursue in the event of a breach of the Agreement by Safety-Kleen.

33.5 Cumulative Remedies. The rights and remedies of VERIZON in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

#### 34.0 INFORMAL MANAGEMENT ESCALATION.

34.1 Informal Management Escalation. Should any disagreement, dispute, disputed claim of breach, nonperformance, or repudiation arising from, related to or connected with this Agreement or any of the terms and conditions hereof, or any transactions hereunder ("Dispute") arise between VERIZON and Safety-Kleen either during this Agreement or after termination of this Agreement, either party may give to the other notice of the Dispute, specifically referencing this provision and request resolution of the Dispute. At the expiration of ten (10) business days, unless it shall have been settled, such Dispute may be referred by either party to the VERIZON Director - Corporate Sourcing and Safety-Kleen Officer for resolution. The parties agree to exchange relevant information and cooperate in good faith to resolve the Dispute under this provision. If within an additional ten (10) business days, such dispute shall not have been settled the parties shall have the right to pursue such remedies as may be available at law or in equity. The parties will not be prohibited from seeking injunctive relief to preserve the status quo pending resolution under this provision.

34.2 Settlement Purposes. ALL DISCUSSIONS AND DOCUMENTS PREPARED PURSUANT TO ANY ATTEMPT TO RESOLVE A DISPUTE UNDER THIS PROVISION ARE CONFIDENTIAL AND FOR SETTLEMENT PURPOSES ONLY AND SHALL NOT BE ADMITTED IN ANY COURT OR OTHER FORUM AS AN ADMISSION OR OTHERWISE AGAINST A PARTY FOR ANY PURPOSE INCLUDING THE APPLICABILITY OF FEDERAL AND STATE COURT RULES.

#### 35 QUALITY

35.1 Commitment to Quality. Commitment to Quality is one of the primary requirements of this Agreement. Safety-Kleen's non-compliance with Quality Commitment shall be deemed by Verizon to be a material breach of this Agreement. Safety-Kleen will demonstrate commitment to Quality by providing:

- (i) A systematic approach to quality management aimed at ensuring that Verizon's needs are understood and met;
- (ii) A commitment to quality principles at all levels of the Safety-Kleen's organization; and
- (iii) An established process of continual review and improvement of the Safety-Kleen's system of quality management based on measurements and feedback of the Verizon's evaluation of the service/product provided.

35.2 Safety-Kleen Audit/Evaluation. Safety-Kleen agrees to allow VERIZON or VERIZON's agent to conduct periodic on-site Quality System audits/evaluations at Safety-Kleen's facilities, within five (5) business days of VERIZON's notification to Safety Kleen , as deemed necessary by VERIZON, to verify compliance with requirements. Safety-Kleen shall receive the results of the evaluations within a reasonable time after the evaluation is completed. If requested by VERIZON, Safety-Kleen also agrees to develop corrective action plans for any deficiencies that may be

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detected during these on-site audits/evaluations and submit these plans to VERIZON or VERIZON's agent within thirty (30) days after the audit/evaluation. Safety-Kleen agrees to implement these corrective action plans , within a mutually agreed upon time frame.

**35.3 Service Quality/Report Cards.** Report cards may be used as a means of measuring the Safety-Kleen's overall performance to ensure the Safety-Kleen is in compliance with the established performance levels. Grades will be assigned to assess Safety Kleen's performance via the Report card process and Safety-Kleen will be required to meet a total score of "B" or above. The Safety-Kleen shall be given the opportunity to give input in the development of the performance level metrics with VERIZON having the final decision in the definition of said metrics.

Within an agreed upon time frame after the execution of this Agreement, at VERIZON's expense, VERIZON may commence the generation of (a) report card(s), showing Safety-Kleens' service/product performance data.

For any elements of the report card that are below a grade of "B", Safety-Kleen will be required to generate a written corrective action plan, within mutually agreed upon time frame. If within a mutually agreed upon time frame, the corrective action plan has not led to an acceptable improvement of the said elements (to a grade of "B" or above), then VERIZON may exercise remedies as set forth in this Agreement.

If, based upon the monthly data collected for VERIZON's Report Card process, Safety-Kleen fails to maintain a total grade of "B" or above for three (3) consecutive months, VERIZON may, in addition to other rights under this Agreement, terminate such as specified in the TERMINATION WITHOUT CAUSE provision of this Agreement and/or withhold Safety-Kleen's next scheduled rate increase for a specific area or areas.. VERIZON's right to terminate this Agreement are not precluded VERIZON's delay in exercising it rights under this Agreement.

**35.4 Quality Performance Reporting.** Safety-Kleen agrees to provide, at VERIZON's cost, periodic data reports which demonstrate the performance of Safety-Kleen's service/product and adherence of Safety-Kleen's service/product to stated requirements.

Within fifteen (15) business days of request by VERIZON, Safety-Kleen will provide Quality performance data on its sub-contractors at no cost to VERIZON.

All mutually agreed upon reports and data shall be delivered to VERIZON's Safety-Kleen Quality Leader and Sourcing Process Leader as directed by VERIZON.

### **36.0 SURVIVAL OF OBLIGATIONS**

**36.1 Continue Beyond Agreement.** The parties' obligations under this Agreement, which by their nature would continue beyond the termination, cancellation or

expiration of this Agreement, shall survive termination, cancellation or expiration of this Agreement.

### 37.0 COMPOSITION OF WASTE

37.1 Waste Description. For each type of Waste tendered to Safety-Kleen, VERIZON shall provide Safety-Kleen with a description of the Waste (the "Waste Description") in a form acceptable to Safety-Kleen. The Waste Description shall be set forth in the relevant Supporting Documents (attached to this Agreement in Exhibit "\_\_\_") and shall include, (if known and/or available or obtainable by Verizon), a description of the Waste stream's chemical components, and the percentage composition of each such component, or the relative mix thereof, stated in ranges acceptable to Safety-Kleen; the process creating the Waste; Waste analysis results, if available; and a listing of unique chemical characteristics of the Waste. It is understood and agreed that Safety-Kleen shall base its testing, evaluation and procedures for Waste Services on the Waste Description.

37.2 Sample of Waste. VERIZON understands that Safety-Kleen may require VERIZON to submit a Waste Description and/or sample of Waste either prior to or following Safety-Kleen's submittal of a quotation or proposal. VERIZON shall, if requested by Safety-Kleen, provide Safety-Kleen with a sample of the Waste in an appropriate container, which Safety-Kleen, at its sole option, may or may not elect to analyze. Safety-Kleen shall have the right, but not the obligation, to inspect, sample, analyze or test tendered Waste before accepting such Waste, and Safety-Kleen's exercise of, or failure to exercise, said right to inspect and sample shall not operate to relieve VERIZON of its responsibility to provide Safety-Kleen a true, accurate and complete chemical and physical description of the Waste tendered or to relieve VERIZON of its liability under this Agreement.

37.3 No Dioxins. VERIZON certifies that the Waste it tenders to Safety-Kleen contains no Chlorinated Dibenzodioxins (Dioxins) as listed in 40 CFR Part 261. VERIZON understands that VERIZON shall be responsible for properly executing, in the form and number required, all manifests, profiles and similar documentation and/or certifications relating to the Waste, in accordance with applicable laws and regulations.

### 38.0 NON-CONFORMING WASTE

38.1 Definition. Waste shall be considered Non-Conforming Waste if it fails to conform to the Waste Description applicable thereto or if any packaging and marking provided by VERIZON is not in accordance with applicable law and, if applicable, requirements provided in advance to VERIZON by Safety-Kleen. In the event the Waste is discovered to be Non-Conforming Waste, Safety-Kleen may reject or revoke its acceptance of the Waste. The rejection or revocation of acceptance shall be effective immediately upon receipt of notice, verbal or written, to VERIZON or its agent. VERIZON and Safety-Kleen shall have seven (7) days to seek an alternative lawful manner of disposition of the Non-Conforming Waste, unless it is necessary by reason of

law or Safety-Kleen facility permit or operating procedure to move the Non-Conforming Waste in less than seven (7) days. If VERIZON and Safety-Kleen cannot agree on an alternative manner of disposition within said seven (7) days or, if applicable, within a shorter period, Safety-Kleen shall either return the Non-Conforming Waste to VERIZON or unilaterally determine and arrange for an alternative, lawful manner of disposition. VERIZON shall pay Safety-Kleen its reasonable expenses and charges for Services provided in relation to such Non-Conforming Waste, including analytical work, repair, replacement, decontamination and cleaning of equipment, and Non-Conforming Waste charges.

38.2 Analysis of Waste. In the event of a dispute under this section, Safety-Kleen may have a sample or samples of such Waste analyzed by a qualified, reputable, independent chemical laboratory. If chemical analysis shows that the particular Waste in question has the chemical composition as described in the Waste Description, then Safety-Kleen will pay the expense of the independent laboratory in performing the chemical analysis and continue its Services as originally agreed. If the chemical analysis shows that the chemical composition of the Waste is not as described in the Waste Description, then Safety-Kleen will proceed as set forth above.

Safety-Kleen shall provide due care while the Non-Conforming Waste is in its possession and shall be responsible only for its employee's, agents', subcontractors', or invitees' negligence with respect to such Waste.

### 39. TITLE

In addition to the Section 12 entitled "OWNERSHIP,"

- a. If Safety-Kleen transports or arranges for transportation of Waste to a Safety-Kleen facility or a disposal facility chosen by Safety-Kleen and provided the Waste meets the Waste Description applicable thereto, and the Waste is properly packaged, coded, marked and labeled, title to and risk of loss, with respect to the Waste, shall pass from VERIZON to Safety-Kleen at such time as the loading operation of Waste onto vehicles provided by Safety-Kleen has been completed and the Waste is signed for and has departed from VERIZON's premises.
- b. Title to Non-Conforming Waste reverts to VERIZON, including risk of loss and all other incidents of ownership, at the time Safety-Kleen communicates to VERIZON that the Waste is Non-Conforming.
- c. It is expressly agreed that Safety-Kleen does not take title to or assume risk of loss with respect to Waste where Safety-Kleen is responsible only for transporting the Waste.

### 40.0 ENTIRE AGREEMENT



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40.1 Entirety. This Agreement constitutes the entire agreement between the parties and shall not be modified or rescinded, except by a writing signed by Safety-Kleen and VERIZON. The pre-printed provisions on the reverse side of a PO are superseded by this Agreement and shall be deemed rejected by Safety-Kleen, void and of no effect. All provisions on Safety-Kleen's forms shall be deemed rejected by VERIZON, void and of no effect. The provisions of this Agreement supersede all prior oral and written quotations, agreements, and understandings of the parties with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first above written.

\_\_\_\_\_  
Safety-Kleen Systems, Inc

\_\_\_\_\_  
Telesector Resources Group, Inc  
(A Verizon Company)

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

By \_\_\_\_\_  
Name: Elaine Schwartz\_  
Title \_\_Sourcing\_\_ Process Leader  
Date \_\_\_\_\_

2/27/2014  
(12:20)

## **Attachment A**

### **Scope of Work**

Safety Kleen will perform all waste removal services as described in Attachment C as mutually agreed.

Safety Kleen will perform services within two (2) days from the time a service call is placed by VERIZON or VERIZON representative. Each Team Leader will be billed for the area garages of his responsibility. When billed properly, VERIZON will make payment by statement with the monthly recap of services performed to the Team Leader area garage accounts. Invoicing will be sent to a delineated location, either to a P O Box in Texas or to individual VERIZON Team Leaders.

All work performed by Safety Kleen will be in compliance with all environmental and waste removal laws and guidelines of the state in which the service(s) are performed.

**Attachment B**

**NON-DISCRIMINATION  
COMPLIANCE UNDERTAKING**

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To the extent that this contract is subject to them, Supplier shall comply with the applicable provisions of the following: Exec. Order No. 11246, Exec. Order No. 11625, Exec. Order No. 12138, Exec. Order No. 11701, Exec. Order No. 11758, Section 503 of the Rehabilitation Act of 1973 as amended by PL93-516, Vietnam Era Veteran's Readjustment Assistance Act of 1974 and the rules, regulations and relevant Orders of the Secretary of Labor pertaining to the Executive Orders and Statutes listed above.

Monetary amounts or contractual or purchasing relationships, together with the number of the Supplier's employees, determine which Executive Order provisions are applicable. For contracts and orders valued at less than \$2,500, none of the clauses shall be considered a part of the contract. However, for contracts or orders of/ or which aggregate to \$2,500 or more annually, the following table describes the clauses which are included in the contract or order:

1. Inclusion of the "Equal Employment Opportunity" clause in all contracts and orders.
2. Certification of non-segregated facilities.
3. Certification that an Affirmative Action program has been developed and is being followed.
4. Certification that an annual Employers Information Report (EEO-1 Standard form 100) is being filed.
5. Inclusion of the "Utilization of Minority and Women's Business Enterprises" clause in all contracts and orders, as required by company policy.
6. Inclusion of the "Minority and Women's Business Subcontracting Program" clause in all contracts and orders, as required by company policy.
7. Inclusion of the "listing of Employment Openings" clause in all contracts and orders.
8. Inclusion of the "Employment of the Handicapped" clause in all contracts and orders.

<b>\$2,500 to \$5,000</b>	<b>\$5,000 to \$10,000</b>
<b>8</b>	<b>8</b>

**\$10,000 to \$50,000**  
**1, 2, 5, 6, 7, 8**

**\$50,000 to \$500,000**

**1, 2, 3\*, 4\*, 5, 6, 7, 8**

**\$500,000 or more**  
**1, 2, 3\*, 4\*, 5, 6, 7, 8**

\*Applies only for business with 50 or more employees

## **1. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS**

In accordance with Executive Order 11246, dated September 24, 1965 and part 60-1 of Title 41 of the Code of Federal Regulations (Public Contracts and Property Management, Office of Federal Contract Compliance, Obligations of Suppliers and Subcontractors), as may be amended from time to time, the parties incorporate herein by this reference the regulations and contract clauses required by those provisions to be made a part of VERIZON contracts and subcontracts.

## **2. CERTIFICATION OF NON-SEGREGATED FACILITIES**

The Supplier certifies that it does not and will not maintain any facilities it provides for its employees in a segregated manner, or permit its employees to perform their services at any location under its control, where segregated facilities are maintained; and that it will obtain a similar certification, prior to the award of any non-exempt subcontract.

## **3. CERTIFICATION OF AFFIRMATIVE ACTION PROGRAM**

The Supplier affirms that it has developed and is maintaining an Affirmative Action Plan as required by Part 60-2 of Title 41 of the Code of Federal Regulations.

## **4. CERTIFICATION OF FILING OF EMPLOYERS INFORMATION REPORTS**

The Supplier agrees to file annually on or before the 31st day of March complete and accurate reports on Standard Form 100 (EE0-1) or such forms as may be promulgated in its place.

## **5. UTILIZATION OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

A. It is the policy of VERIZON that minority and women's business enterprises shall have the maximum practicable opportunity to participate in the performance of the contract.

B. The Supplier agrees to use its best efforts to carry out this policy in the award of its subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in the contract the term "minority or women's business enterprise" means a business, at least 50 percent of which is owned, controlled and operated by minority group members or women, or in the case of publicly owned businesses, at least 51 percent of its stock is owned by minorities or women. For the purposes of this definition, minority group members are American: Blacks, Hispanics, Asians, Pacific Islanders, American Indians and Alaskan Natives. Supplier may rely on written representation by subcontractors regarding their status as minority or women's business enterprises in lieu of an independent investigation.

## **6. MINORITY AND WOMEN'S BUSINESS ENTERPRISES SUBCONTRACTING**

## PROGRAM

**A.** The Supplier agrees to establish and conduct a program which will enable minority and women's business enterprises (as defined in Paragraph 5) to be considered fairly as subcontractors and suppliers under the contract. In this connection, the Supplier shall:

1. Designate a liaison officer who will administer the Supplier's minority and women's business enterprises in all "make or buy" decisions.
2. Provide adequate and timely consideration of the potentialities of known minority and women's business enterprises in all "make and buy" decisions.
3. Assure that known minority and women's business enterprises will have an equitable opportunity to compete for contracts, particularly by arranging solicitations, time for preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority and women's business enterprises.
4. Maintain record showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority and women's business enterprises, (ii) awards to minority and women's business enterprises on the source list, and (iii) specific efforts to identify and award contracts to minority and women's business enterprises.
5. Include the Utilization of Minority and Women's Business Enterprises clause in subcontracts which offer substantial minority and business women's business enterprises subcontracting opportunities.
6. Cooperate with VERIZON's M/WBE manager in any studies and surveys of the Supplier's minority and business enterprises procedures and practices that the VERIZON M/WBE representative may from time to time conduct.
7. Submit periodic reports of subcontracting to known minority and women's business enterprises with respect to the records referred to in subparagraph 4 above, in such a form and manner and at such time (not more than quarterly) as the VERIZON M/WBE representative may prescribe.

**B.** The Supplier further agrees to insert, in any subcontract hereunder which may exceed \$500,000 (or in the case of M/WBE, \$1,000,000 in the case of contracts for construction of any Public facility and which offer substantial subcontracting possibilities) provisions which shall conform substantially to the language of this agreement, including this paragraph (B).

## 7. LIST OF EMPLOYMENT OPENINGS FOR VETERANS

In accordance with Exec. Order 11701, dated January 24, 1973 and Part 60-250 of Title 41 of the Code of Federal Regulations, as may be amended from time to time, the parties incorporated herein by this reference the regulations and contract clauses required by those provisions to be made part of VERIZON contracts and subcontracts.

ORIGINAL  
(Red)

## 8. EMPLOYMENT OF THE HANDICAPPED

In accordance with Exec. Order 11758, Dated January 15, 1974, and Part 60-741 of Title 41 of the Code of Federal Regulations as may be amended from time to time, the parties incorporated herein by this reference the regulations and contract clauses required by those provisions to be made a part of VERIZON contracts and subcontracts.

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(130)

**Attachment C Index  
Price List**

**SEE PRICE LISTS ATTACHED:**

<b>ATTACHMENT C-1:</b>	<b>PARTS CLEANER PRICING</b>
<b>ATTACHMENT C-2:</b>	<b>FLUID DISPOSAL – OIL RECOVERY, ANTI-FREEZE, OILY WATER</b>
<b>ATTACHMENT C-3:</b>	<b>WASTE GAS, GAS FILTERS &amp; TANKS, OIL FILTERS</b>
<b>ATTACHMENT C-4:</b>	<b>VACUUM SERVICES</b>
<b>ATTACHMENT C-5:</b>	<b>FLUORESCENT BULBS</b>
<b>ATTACHMENT C-6:</b>	<b>NEW PIG/ABSORBENT PRODUCTS</b>
<b>ATTACHMENT C-7:</b>	<b>ALLIED PRODUCTS</b>



2/16/00  
(630)**ATTACHMENT D**

## Former GTE Affiliate Companies

**AFFILIATED ENTITIES**

The names of certain GTE Affiliated Business Units are in the process of being changed as a result of the merger of GTE Corporation and Bell Atlantic Corporation. The legal entities themselves have not changed under the merger. The only change is either in the name of the company or a change in the doing-business-as (d/b/a) name. For ease of reference, where not obvious as from a d/b/a, the name by which a Verizon company was formerly known has been included in parenthesis (f/k/a). That f/k/a is not part of the legal name.

**General Administration**

## GTE Corporation

GTE Finance Corporation  
 GTE REinsurance Company Limited  
 GTE Life Insurance Company Limited  
 GTE Service Corporation, d/b/a Verizon Services Group  
 GTE Shareholder Services Incorporated  
 Verizon Investment Management Corp. (f/k/a  
 GTE Investment Management Corporation)  
 Verizon Realty Corp. (f/k/a GTE Realty Corporation)  
 GTER Incorporated  
 GTE-TCCA, Inc.

Verizon Directories Corp. (f/k/a GTE Directories Corporation)

Verizon Directories Distribution Corp. (f/k/a GTE

Directories Distribution Corporation)

Verizon Directories Sales Corp. (f/k/a GTE

Directories Sales Corporation)

GTEX Corporation

GTE Directorios - Republica Dominicana, C. por A.

GTE GmbH

Verizon New Media Services Inc. (f/k/a GTE New

Media Services Incorporated)

GTE Yellow Pages Publishing Hungary Kft

**Select Services**

ContelVision, Inc.

GTE Main Street Incorporated

Verizon Media Ventures Inc. (f/k/a GTE Media Ventures

Incorporated)

Verizon Select Services Inc. (f/k/a GTE Communications

Corporation)

Verizon Select Services of Virginia Inc. (f/k/a GTE

Communications Corporation of Virginia)

**Information Services**

Verizon Information Services Inc. (f/k/a GTE Information

Services Incorporated)

General Telephone Directory Company C. por A.

Verizon International Telecom Services Inc. (f/k/a

Telecom Services Corporation)

GTE Directories (B) SDN.BHD. (Brunei)

**Information Technology**

Verizon Data Services Inc. (f/k/a GTE Data Services

Incorporated)

Verizon Data Services International Inc. (f/k/a GTE

Data Services International Incorporated)

GTE Airfone of Canada Incorporated

**Network Services**

GTE Alaska Incorporated, d/b/a Verizon Alaska

GTE Arkansas Incorporated, d/b/a Verizon Arkansas

Verizon California Inc. (f/k/a GTE California Incorporated)

Contel Advanced Systems, Inc.

Verizon Florida Inc. (f/k/a GTE Florida Incorporated)

GTE Funding Incorporated

Verizon Hawaii Inc. (f/k/a GTE Hawaiian Telephone

Company Incorporated)

ORIGINAL  
(3d)

GTE Hawaiian Tel Insurance Company  
Incorporated  
Verizon Hawaii International Inc. (f/k/a GTE  
Hawaiian Tel International Incorporated)  
GTE Far East (Services) Limited  
The Micronesian Telecommunications  
Corporation  
GTE Pacifica Incorporated, d/b/a  
Verizon  
Pacifica  
GTE Midwest Incorporated, d/b/a Verizon  
Midwest  
Verizon North Inc. (f/k/a GTE North  
Incorporated)  
Verizon Northwest Inc. (f/k/a GTE Northwest  
Incorporated)  
Verizon West Coast Inc. (f/k/a GTE West  
Coast  
Incorporated)  
Verizon South Inc. (f/k/a GTE South  
Incorporated)  
GTE Southwest Incorporated, d/b/a Verizon  
Southwest  
Contel of Minnesota, Inc., d/b/a Verizon  
Minnesota  
Contel of the South, Inc. d/b/a Verizon South  
Systems/  
Verizon North Systems

GTE Consolidated Services Incorporated

### International

CODETEL International Communications  
Incorporated

GTE Anglo Holding Company Incorporated  
La Compagnie de Telephone Anglo-  
Canadienne/  
Anglo-Canadian Telephone Company  
TELUS Corporation  
3554864 Canada Ltd.  
Aerotech Specialties Ltd.  
ISM Information Systems  
Management  
(B.C.) Corporation  
Telecom Leasing Canada (TLC)  
Limited  
TELUS Communications (B.C.) Inc.  
TELUS Holdings Inc.  
TELUS Communications Inc.  
TELUS Enterprises Inc.  
TELUS Services Inc.

Inc. TELUS Advanced Services  
TELUS Mobility Cellular Inc.  
TELUS Risk Management Inc.

The QuébecTel Group Inc.  
DynEC Inc.  
Groupe Fortune 1000 Inc.  
Québec-Téléphone  
Québec -Communications Inc.  
Québec Tel Aliz. Inc.  
QuébecTel Communications Inc.  
SWAP-T Inc.  
Versalys Inc.

GTE China Incorporated  
GTE International Telecommunications  
Services  
LLC  
GITS Branch LLC  
GTE Holdings Mexico, S. de R.L. de  
C.V.  
GTE Data Services-Mexico, S.A. de  
C.V.  
GTEDS Services-Mexico, S.A. de  
C.V.  
GTE Information Services (UK) Limited  
Herold Business Data AG  
Panorama Polska  
Sp. z o.o.  
GTE Supply do Brasil, Ltda.  
Guangzhou Guangtong-GTE Tianwei  
Communications Development  
Company Ltd.

GTE Holdings (Canada) Corporation  
Compañía Dominicana de Teléfonos, C.  
por A.  
(CODETELI)  
Operadora de Procesamiento de  
Información y  
Telefonia, C. por A. (OPITEL)  
Quality Telecommunications, C. por A.  
GTE Dominican Republic Holdings LLC

GTE International Telecommunications  
Incorporated  
GITI Services Puerto Rico Incorporated  
GTE do Brasil Limitada  
GTE PCS International Incorporated  
GTE Venezuela Incorporated  
VenWorld Telecom, C.A. (Venezuela)

CONFIDENTIAL  
(b)(3)

Compañía Anónima Nacional  
Teléfonos de  
Venezuela (CANTV)  
GTE Holdings (Puerto Rico) LLC  
Caribe Information Investments  
Incorporated  
Axesa Informacion Incorporado  
Telecomunicaciones de Puerto Rico,  
Inc.  
Celulares Telefonica Inc.  
Datacom Caribe, Inc.  
Puerto Rico Telephone Company,  
Inc.

GTE International Telephone Incorporated  
Informática y Telecomunicaciones, C. por  
A.  
(Dominican Republic)

GTE Investments Incorporated

### Wireless Products and Services

GTE Consumer Services Incorporated

GTE Wireless Incorporated  
Contel Cellular International, Inc.  
GT Towers Incorporated  
GTE Mobile Communications International  
Incorporated  
CTI Holdings, S.A.  
CTI Compañía de Teléfonos del  
Interior S.A.  
CTI Norte Compañía de Teléfonos  
del  
Interior S.A.  
CTI PCS Holdings S.A.  
CTI PCS S.A.  
GTE Mobilnet of Cleveland Incorporated  
GTE Wireless of Ohio Incorporated  
GTE Mobilnet of Eastern North Carolina  
Incorporated  
GTE Wireless of the South Incorporated  
GTE Wireless Service Corporation  
  
GTE Airfone Incorporated  
GTE Railfone Incorporated  
Mexfone, S.A. de C.V.

### Other Operations

Contel Federal Systems, Inc.  
GTE Telecommunications Services  
Incorporated  
GTE Signaling LLC  
Contel Page International, Inc.  
GTE Telecom International Incorporated  
GTE Telecom International Systems  
Corporation

GTE Assets Incorporated

GTE Enterprise Initiatives Incorporated

GTE Products of Connecticut Corporation  
GTE Communication Systems Corporation  
(acting  
through its Verizon Logistics division)  
GTE International Incorporated  
GTE Overseas Corporation

Verizon Laboratories Inc. (f/k/a GTE  
Laboratories Incorporated)

GTE Operations Support Incorporated

Televac, Inc.

Verizon Credit Inc. (f/k/a GTE Leasing  
Corporation)  
Verizon Capital Acceptance Corp. (f/k/a  
GTE  
Leasing Acceptance Corporation)  
Kalama Grain Terminal, Inc.

GTE Transfer Corporation  
Verizon Technology Corp. (f/k/a GTE  
Technology  
Corporation)  
BBNT Solutions LLC  
Federal Network Systems LLC  
GTE.Net LLC, d/b/a Verizon Internet  
Solutions

CONFIDENTIAL  
(b)(7)(D)

## Attachment F

ORIGINAL  
(734)

Contract: X15268P

THIS AGREEMENT by and between Telesector Resources Group, Inc., d/b/a Bell Atlantic Network Services, a Delaware corporation with an office at 240 East 38th Street, New York, NY 10016 (hereinafter referred to as "BELL ATLANTIC"), on behalf of itself and for the benefit of its Affiliates, and Planet Earth Recycling Inc. located at 7928 State Rd. Philadelphia PA 19136 (hereinafter referred to as "You").

1.0 SCOPE OF AGREEMENT This Agreement sets out the terms and conditions that will govern your provision of the services described in the Scope of Work that is attached as Attachment A (Services). BELL ATLANTIC may, from time to time, modify the requirements of a Scope of Work. You may be required to perform the Services for Bell Atlantic, Bell Atlantic-New York, Bell Atlantic-New England or other companies related to BELL ATLANTIC, and these companies shall be entitled to all of the rights and benefits of this Agreement. This is an "as-ordered" agreement which means that it covers Services as they are ordered by BELL ATLANTIC. BELL ATLANTIC is not promising to purchase any Services from you and any estimates that BELL ATLANTIC may have provided to you are not firm or binding. BELL ATLANTIC may purchase the same or similar Services from other parties.

2.0 SERVICE ORDER BELL ATLANTIC may order services by telephone or fax. BELL ATLANTIC shall notify you of the names of the individuals authorized to order services. You shall provide the Services at the time and place specified by Bell Atlantic when the Services are ordered.

3.0 TERM OF AGREEMENT This Agreement shall be effective on August 25, 1998 and shall end November 30, 2001, provided that BELL ATLANTIC may extend this Agreement for a period of up to (3) three years by giving Supplier written notice at least thirty (30) days prior to the expiration date. The parties may renegotiate the prices and terms of this agreement annually.

4.0 PRICE The prices for the Services are set forth in Attachment B. These prices are all inclusive and there shall be no other charges whatsoever. These prices shall not be increased during the term of this Agreement. If you lower your prices to other customers, you shall provide BELL ATLANTIC with such lower pricing. You may not charge BELL ATLANTIC for overtime work unless Bell Atlantic approved such work before it was performed.

5.0 PAYMENT You shall send invoices to BELL ATLANTIC fully describing the Services covered, at an address designated by BELL ATLANTIC as outlined in Attachment C entitled 'Invoicing Instructions', attached hereto and made a part hereof, after you have completed and BELL ATLANTIC has accepted the Services. BELL ATLANTIC shall pay the invoices within forty-five (45) days from the date it receives the invoice. If BELL ATLANTIC disputes all or any portion of an invoice, it shall be required to pay only the amount not in dispute. All invoices must include BELL ATLANTIC Vehicle Number, Job Number, Garage Facility, a list of all discounts and a detailed description of all Services performed. BELL ATLANTIC shall be entitled to set off any amount you owe against amounts payable under this or any other agreement.

6.0 LOWEST COST MATERIALS If you purchase materials on behalf of BELL ATLANTIC you agree to make all purchasing decisions solely on meeting the needs of BELL ATLANTIC at the lowest possible cost. BELL ATLANTIC may direct you to purchase the materials from a Supplier chosen by BELL ATLANTIC.

7.0 AUDITS You shall maintain, in accordance with standard recognized accounting practices, accurate and complete records that enable you to show that you have fulfilled all the requirements of this Agreement. You shall keep all of these records for three (3) years after this Agreement terminates. You shall allow BELL ATLANTIC and its authorized representatives to inspect these records, during normal business hours. BELL ATLANTIC shall be entitled to a refund for all amounts that the inspection finds BELL ATLANTIC overpaid you.

8.0 ACCEPTANCE does not occur merely because you perform Services or because BELL ATLANTIC pays for such Services. Should BELL ATLANTIC find the performance of any Services to be unsatisfactory, it may reject and not accept such Services. In this case BELL ATLANTIC may, at its choice, require you to re-perform the services or receive a full refund of any amount paid for such Services and then have those Services performed by another supplier with you reimbursing BELL ATLANTIC for any increased costs.

9.0 INDEPENDENT CONTRACTOR You shall perform the Services as an independent contractor, and not as an employee, joint venture, partner or agent of BELL ATLANTIC. You shall properly pay your employees and

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ORIGINAL  
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shall ensure that all taxes and other amounts (for example workman's compensation ) are withheld. You shall not bind, or attempt to bind, BELL ATLANTIC to any obligation with any third parties and You shall act at all times consistently with your status as an independent contractor. You are fully responsible for supervising your employees and for how you perform the Services. BELL ATLANTIC does not and will not have actual, potential, or any other control over you or anyone acting on your behalf, except as is otherwise expressly set forth in this Agreement.

**10.0 TOOLS AND EQUIPMENT** You shall provide all labor, tools and equipment ("tools") used in providing Services. If you use tools owned or rented by BELL ATLANTIC, the tools are provided "as is" and it is your responsibility to inspect the tools to ensure that they are fit for use. You shall indemnify BELL Atlantic against all claims relating to injuries or damages caused by any tool that you use. You may not remove tools owned by BELL ATLANTIC or its Affiliates without written permission of BELL ATLANTIC.

**11.0 PREMISES** You and all of your employees shall comply with all facility rules, regulations and security procedures of any BELL ATLANTIC facility at which Services are performed and you shall work in harmony with all others at any such facility. Upon completion of the Services, you shall remove promptly all implements, surplus materials and debris from the premises. You shall refrain, to the extent possible, from bringing any toxic or hazardous products onto the premises of BELL ATLANTIC. You shall refrain, notify BELL ATLANTIC in writing and shall supply any appropriate Material Safety Data Sheet (MSDS) if any material that is brought on BELL ATLANTIC's premises is considered toxic or hazardous or if the product is capable of constituting a health or safety hazard. You must assure that all such materials display all reasonable notices and warnings of foreseeable hazards. You are responsible for removing and, if the materials become waste materials, for properly disposing of, all such materials.

**12.0 WARRANTIES** You warrant that you will perform the Services in a professional and workmanlike manner in full accordance with this Agreement, applicable laws and the highest standards of the industry. If you use any subcontractors, you warrant that you are fully responsible for their actions and that you will pay them for their work and you shall not allow any liens to be placed upon BELL ATLANTIC property. You shall, to the fullest extent possible, pass along to BELL ATLANTIC all manufacturer's warranties covering any products, materials and services you provide. This includes any recalls and campaigns as well as parts and labor warranty repairs. These warranties are in addition to all other warranties, express, implied or statutory. BELL ATLANTIC shall not, by paying for or accepting Services, waive any of its warranty rights. BELL ATLANTIC may, without limiting any of its other rights under this Agreement or at law, require Supplier to re-perform Services which do not meet an applicable warranty. Supplier shall also be responsible for any costs, expenses, and damages, which result from the failure of Service to comply with any of the warranties.

**13.0 INDEMNIFICATION** You agree to indemnify, defend and hold BELL ATLANTIC and its Affiliates harmless against any losses, damages, liabilities, penalties, fines, claims or demands (including all costs, expenses and reasonable attorneys' fees on account thereof or in connection with any investigation or preparation related thereto or the enforcement of the indemnification provisions of this Agreement) that may be made by any party as a result of your actual or alleged acts or omissions, including your operation of BELL ATLANTIC vehicles.

**14.0 IMPEALER AND LIMITED LIABILITY OF BELL ATLANTIC**

**14.1** You shall not impale or bring any action against BELL ATLANTIC based on any claim (i) by any BELL ATLANTIC employee for personal injury or death that occurs in the course or scope of employment of such person or (ii) by any person furnished by you under this Agreement based on employment contract, or federal, state or local laws prohibiting discrimination in employment.

**14.2** You also agree that BELL ATLANTIC shall not be liable for any consequential, special, indirect, incidental, punitive or exemplary damages for any acts or failure to act under this Agreement.

**15.0 INSURANCE REQUIREMENTS**

You shall obtain and maintain at your own expense, at all times while performing Services for Bell Atlantic, the following insurance: (i) **Garage Liability** insurance of no less than \$1M per occurrence, (ii) **Commercial Auto Liability Insurance** of not less than \$1M per occurrence with an excess in the umbrella form for \$1M. (iii) **Workers Compensation** to meet statutory requirements, and **Employer's Liability** at not less than \$1M per

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occurrence. (iv) **Pollution Liability Insurance** in state of no less than \$1M. Companies doing interstate business must have no less than \$5M.

All required insurance must be provided by insurers licensed to do business in the state in which the work is performed and must have AM Best Rating "AX" or better. Supplier must provide a certificate of insurance prior to the start of any work which names Telesector Resources Group, Inc. on behalf of itself and its parent, affiliate and subsidiary companies, as additional insured on the Commercial General Liability and Garage Liability policies. Furthermore, the Certificate must state that Bell Atlantic shall receive at least thirty (30) days notice of cancellation or modification of the above insurance and you are responsible for assuring that Bell Atlantic receives such notice.

You are required to name Telesector Resources Group, A Bell Atlantic Company, as additional insured before the start of business. Any changes and annual renewals must be sent to Bell Atlantic.

**16.0 CONTINGENCY** Neither party shall be liable for its failure to perform where such failure is due to any causes (such as strikes, wars, acts of sabotage or natural disasters) that are beyond its control and are not caused by its acts or omissions ("Contingency"). Each party shall promptly notify the other in case of a Contingency occurrence within five days after the beginning thereof, and the party receiving notice may, by providing notice to the other party at any time during the period covered by the Contingency, extend the time for performance, or cancel all or any unperformed part, of this Agreement.

**17.0 BELL ATLANTIC RIGHT TO TERMINATE** BELL ATLANTIC may terminate this Agreement as follows: (i) immediately upon notice in response to regulatory or legal concerns or any concerns that activities under this Agreement may endanger the health or safety of a person, the environment or the BELL ATLANTIC network; (ii) at any time without cause upon sixty (60) days notice; or (iii) immediately upon notice for cause as follows: (a) for failure to perform, if BELL ATLANTIC first gave you notice of breach and an opportunity to cure in seven (7) days, or (b) based on BELL Atlantic's belief that you have engaged in illegal, criminal or fraudulent conduct in connection with the Services, (c) your failure to pay subcontractors or employees providing services under this Agreement, or (d) your insolvency or a change in your ownership.

#### **18.0 INFORMATION AND INTELLECTUAL PROPERTY**

**18.1** Bell Atlantic shall not be obligated to refrain from using or disclosing to others any information that you provide to BELL ATLANTIC (even if labeled or otherwise designated as confidential). Any Information that BELL ATLANTIC furnishes to you shall remain BELL ATLANTIC property. You shall return such information to BELL ATLANTIC at BELL Atlantic's request. You shall keep the information confidential and shall not use the Information except as necessary to perform Services under this Agreement.

**18.2** Any reports or information that you prepare shall be considered work for hire and shall be owned by BELL ATLANTIC.

**19.0 COMPLIANCE WITH LAWS** You shall comply with all applicable federal, state or local laws and regulations. You agrees that it will not discriminate against any employee or applicant for employment on account of race, color, religion, sex, disability or national origin. You shall have, while performing Services for BELL ATLANTIC, all permits or other appropriate records that may be required by law. All citations (i.e. traffic fines, parking summonses, etc.) issued to a Bell Atlantic vehicle or piece of equipment while in your care and custody shall be your sole responsibility.

**20.0 ASSIGNMENT** You may not assign any right or interest or delegate any of your work or other obligations without first obtaining the written permission of BELL ATLANTIC. Any attempted assignment or delegation without such written consent from BELL ATLANTIC shall be void and ineffective. BELL ATLANTIC may freely assign this Agreement in whole or in part.

#### **21.0 GENERAL PROVISIONS**

**21.1 GOVERNING LAW** The validity, interpretation and performance of this Agreement shall be governed by the procedural and substantive laws of the state of New York, except that the laws concerning conflicts of laws shall not apply.

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22.2 SEVERABILITY AND NONWAIVER In the event that one or more parts of this Agreement are determined by a court to be unenforceable, then such section shall be removed from the Agreement (provided that the Agreement is not significantly modified). The remaining parts of the Agreement shall be unaffected and shall remain in full force and effect. The failure of either party to strictly enforce any of the terms and conditions of this Agreement shall be construed as a waiver of the future performance of that term or condition.

22.3 NOTICES All notices and other communications between the parties shall be effective when received at the addresses specified below. Notices must be sent by certified or registered mail (return receipt requested) or to the fax number set forth below (with proof of sending retained). The parties may, by providing seven days' written notice, change the addresses set forth below.

Notices to BELL ATLANTIC shall be sent to:

Bell Atlantic Corporate Sourcing  
240 East 38th Street, 22nd Floor  
New York, NY 10016  
Attn: Elaine Schwartz  
Tel No. 212-338-7282  
Fax No. 212-476-5242

Notices to Supplier shall be sent to:

Planet Earth Recycling Inc.  
7928 State Rd.  
Philadelphia PA 19136  
Attn: Barry or Scott  
Tel No. 800-327-8450 Fax No. 215-333-6830

22.4 SURVIVAL OF OBLIGATIONS Obligations under this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive termination, cancellation or expiration of this Agreement.

22.5 ADVERTISEMENTS You shall not, without prior written consent of BELL ATLANTIC, use BELL ATLANTIC trademarks, logos or other identifiers or publicize the fact that you have furnished Services to BELL ATLANTIC.

22.6 GIFTS AND GRATUITIES The exchange or offering of any money, gift item, personal service, entertainment or unusual hospitality by either party to the other is expressly prohibited. This prohibition is equally applicable to the parties' officer, employees, agents and immediate family members. You shall notify the Bell Atlantic Security Office if any Bell Atlantic employee asks you to violate this prohibition.

23.0 ENTIRE AGREEMENT This Agreement constitutes the entire agreement between the parties and shall not be changed, modified or rescinded, except by a writing signed by both parties. All provisions on you forms shall be deemed rejected by BELL ATLANTIC, void and of no effect. This Agreement replaces, revokes and rescinds all prior oral and written quotations, agreements, and understandings of the parties with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first above written.

Planet Earth Recycling Inc.

By Barry Goss  
Name Barry Goss  
Title K.P.O.P.  
Date 9/7/98

Telesector Resources Group, Inc.  
(a BELL ATLANTIC Company)

By Elaine Schwartz  
Name Elaine Schwartz  
Title S.R.  
Date 9/16/98

Not for disclosure outside of Bell Atlantic Companies without prior written notice.



Contract: X15268P

ORIGINAL  
COPY

**Attachment A  
Scope of Work  
Vendor Out Services**

The following Scopes of Work cover the vendor out services that are required to support the local maintenance functions performed at the Bell Atlantic garages. While we have provided some detail and service requirements, these descriptions are not all inclusive. They are provided to give you an understanding of the service requirements and commitments we will require of you.

The movement of Bell Atlantic vehicles, off Bell Atlantic property, can only be done using a tow or transporter plate. The operation of Bell Atlantic vehicles between locations is prohibited. Road testing in conjunction with a repair is the **ONLY** exception.

You shall obtain and maintain at your own expense, at all times while performing Services for Bell Atlantic, the following insurance: (i) **Garage Liability** insurance of no less than \$1M per occurrence, (ii) **Commercial Auto Liability Insurance** of not less than \$1M per occurrence with an excess in the umbrella form for \$1M. (iii) **Workers Compensation** to meet statutory requirements, and **Employer's Liability** at not less than \$1M per occurrence. (iv) **Pollution Liability Insurance** in state of no less than \$1M. Companies doing interstate business must have no less than \$5M.

All required insurance must be provided by insurers licensed to do business in the state in which the work is performed and must have AM Best Rating "AX" or better. Supplier must provide a certificate of insurance prior to the start of any work which names Telesector Resources Group, Inc. on behalf of itself and its parent, affiliate and subsidiary companies, as additional insured on the Commercial General Liability and Garage Liability policies. Furthermore, the Certificate must state that Bell Atlantic shall receive at least thirty (30) days notice of cancellation or modification of the above insurance and you are responsible for assuring that Bell Atlantic receives such notice.

You are required to name Telesector Resources Group, A Bell Atlantic Company, as additional insured before the start of business. Any changes and annual renewals must be sent to Bell Atlantic.

**Description of Services**

**Environmental Services:**

**Waste Oil Filters:**

Planet Earth Recycling Inc. will provide Bell Atlantic on an as needed call out basis, pick-up and delivery of waste oil materials. This will include pick-up or waste oil filters for recycling at the price herein as attachment B. Vendor will provide drums at no charge at all locations serviced. When picking up half drums of waste oil filters, Bell Atlantic will be billed at half the negotiated fee for service. No other associated charges will be billed for this service. When pick-up of filters is provided Planet Earth Inc. will provide a free empty 55 gallon drum in exchange. Planet Earth Inc. will dispose of these filters in 100% environmentally sound procedures from cradle to grave as audited by the Bell Atlantic environmental team.

Contract: X15268P

**Antifreeze Recycling:**

At Bell Atlantic's request Planet Earth, Inc. may be called to recycle used antifreeze in 55 gallon drums. Planet Earth, Inc. will be responsible for bringing this up to specifications for proper use for it's vehicles in various climates and regions. Prices are inclusive as indicated in Attachment B.

**Oil Absorbent Pads and Removal:**

At Bell Atlantic's request Planet Earth will deliver and remove white oil absorbent pads packaged in a 55 gallon new fiber disposal drum. Soil Pads will be placed in the drum provided by Planet Earth, Inc. and a truck will be dispatched to pick-up a full drum of waste pads and material, and another drum will be replaced at Bell Atlantic's request. Prices are all inclusive as indicated in Attachment B.

**Oil Dry Disposal:**

On an as needed basis Bell Atlantic may request the disposal of waste oil dry. Planet Earth, Inc. will supply a 55 gallon new fiber drum. Bell Atlantic will request a pick-up service within 2-3 days whereby Planet Earth will deliver a clean drum in exchange. Prices are all inclusive as indicated in Attachment B.

Contract: X15268P

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**ATTACHMENT B**  
**Pricing List**

Planet Earth Recycling Inc.  
7928 State Rd.  
Philadelphia PA 19136  
Attn: Barry or Scott  
Tel No. 800-327-8450 Fax No. 215-333-6830

**ENVIRONMENTAL SERVICES FOR DOWNSTATE AND MID STATE NY**

<b>Waste oil filter pick-up</b>	<b>\$39/per 55 gallon drum provided by Planet Earth There is no drum deposit charge.</b>
<b>Antifreeze Recycling</b>	<b>\$1.95 per gallon 55 gallon drum deposit \$35 Drum lever pump \$55 ( one time charge )</b>
<b>Oil Absorbent Pads and removal</b>	<b>Each 55 gallon fiber drum includes 200 new oil absorbent pads. Used pads may be removed in drum provided by Planet Earth—All inclusive Pricing \$198 per drum</b>
<b>Oil Dry Disposal Service</b>	<b>Planet Earth supplies 55 gallon fiber drum. Waste removal costs \$249 per drum.</b>

Original  
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### ATTACHMENT C

#### Special Invoicing Instructions

All invoices must include BELL ATLANTIC Vehicle Number, Job Number, Garage Facility, a list of all discounts and a detailed description of all Services performed. BELL ATLANTIC shall be entitled to set off any amount you owe against amounts payable under this or any other agreement.

All invoices must be forwarded to the Bell Atlantic Fleet Operations Manager indicated in the garage grouping listed below. Do not forward any invoices to the individual garage. Payment will only be made when proper invoicing is sent to the Bell Atlantic Fleet Operations Manager.

**Ed Campbell**

115 Middle Street, Weymouth, MA 02189

Tel: 781-340-0993 FAX: 781-331-5061 Pager: 617-465-6643

Garage #	Address				Hours of Operation	# Vehicles
6202	475 Wildwood Ave	Woburn	MA	01801	6am - 11:30pm	67
6203	283 Locust St	Woburn	MA	01801	6am - 11:30pm	64
6207	21 Third Ave	Somerville	MA	02143	6am - 11:30pm	138
6211	540 Hillside Ave	Needham	MA	02192	3:30pm - 11:30pm	48
6217	154 Calvary St	Waltham	MA	02154	3:30pm - 11:30pm	96
6218	594 Pleasant St	Watertown	MA	02172	1pm - 11:30pm	118
Total Vehicle Count						531

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**Tom Cusack**

15 Currant Road, Fall River, MA 02720

Tel: 508-678-9968 FAX: 508-324-1164 Pager: 617-789-0296

Garage #	Address				Hours of Operation	# Vehicles
5418	15 Currant Rd	Fall River	MA	02720	3pm - 11pm	71
5419	689 Kempton St	New Bedford	MA	02740	3pm - 11pm	58
5421	1166 Shawmut Ave	New Bedford	MA	02745	12pm - 11pm	72
5429	18 Reed St	Taunton	MA	02780	3pm - 11pm	77
5426	Perry Dr	Foxboro	MA	02035	3pm - 11pm	77
5427	Birch St	Milford	MA	01757	3pm - 11pm	82
8827	14 John St	Marlboro	MA	01752	3pm - 11pm	81
Total Vehicle Count						518

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**Tom Myers**

170 Shrewsbury Street, Boylston, MA 01505

Tel: 508-869-0355 FAX: 508-869-3450 Pager: 413-730-0348

Garage #	Address				Hours of Operation	# Vehicles
5417	146 Leland St	Framingham	MA		3pm - 11pm	130
8810	SR Summer St	Lunenburg	MA	01462	3pm - 11pm	73
8811	Post Rd	Brookfield	MA	01515	3pm - 11pm	14
8814	3 Industrial Park Dr	Shrewsbury	MA	15545	3pm - 11pm	12
8815	230 Worcester St	Southbridge	MA	01550	3pm - 11pm	31
8817	Route 146	Sutton	MA	01604	7am - 11pm	21
8818	220 Brook St	Worcester	MA	01606	3pm - 11pm	112
8820	170 Shrewsbury St	Boylston	MA	01505	3pm - 11pm	66
8821	Stafford St	Worcester	MA	01601	3pm - 11pm	49
Total Vehicle Count						508

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Mike Salzano

145-99 226th St, Laurelton, NY 11433

Tel: 718-527-5816 FAX: - - Pager: 917-857-9250

Garage #	Address				Hours of Operation	# Vehicles
10165	135-02 Springfield Blvd	Springfield Gdns	NY	11413	5am - 12:30am	67
37524	95-40 Tuckerton St	Jamaica	NY	11433	4pm - 12am	159
37527	147-10 Guy Brewer Blvd	Laurelton	NY	11433	4pm - 12am	153
37544	99-20 189th St	Hollis	NY	11423	4pm - 12am	96
37546	1221 Redfern Ave	Far Rockaway	NY	11691	4pm - 12am	101
37547	100-02 Atlantic Ave	Wood Haven	NY	11416	4pm - 1:30am	49
37529	145-99 226th St	Springfield Gdns	NY	11413	3pm - 11pm	106
37330	Bldg 147 JFK	Queens	NY	11430	4pm - 12am	31
Total Vehicle Count						762

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Ed Elmes

1130 Union Ave., Newburgh, NY 12550

Tel: 914-566-1628 FAX: 914-566-1732 Pager: 914-951-9159

Garage #	Address				Hours of Operation	# Vehicles
22516	Arlo Ln	Peekskill	NY	10566	3:30pm - 12am	96
22522	Route 22	Croton Falls	NY	10519	3:30pm - 12am	53
22524	Norm Rd	Mount Kisco	NY	10549	3:30pm - 12am	69
22530	S Crompond Rd	Yorktown	NY	10598	3:30pm - 12am	71
22533	Kensico Dr	Mount Kisco	NY	10549	3:30pm - 12am	95
22586	Old Brewster Rd	Carmel	NY	10512	3:30pm - 12am	83
Total Vehicle Count						467

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Dominick Sicola

2260 Saw Mill River Rd., Elmsford, NY 10523

Tel: 914-592-6004 FAX: - - Pager: 914-951-0861

Garage #	Address				Hours of Operation	# Vehicles
22394	999 Nepperhan Ave	Yonkers	NY	10703	3:30pm - 12am	106
22526	315 Boston Post Rd	Port Chester	NY	10573	3:30pm - 12am	88
22527	223 Marbledale Rd	Tuckahoe	NY	10707	7am - 12am	102
22537	370 White Plains Rd	Eastchester	NY	10709	3:30pm - 12am	63
22539	Purdy & Ryan	Port Chester	NY	10573	3:30pm - 12am	87
22544	Saw Mill River	Elmsford	NY	10523	3:30pm - 12am	59
22587	2260 Saw Mill River Rd	Elmsford	NY	10523	7am - 12am	107
10144	23 Warehouse Ln	Elmsford	NY	10500		25
22525	195 Lispenard Av	New Rochelle	NY	10801	Closed	54
Total Vehicle Count						691

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Barry Lawrence

5415 Foster Ave. Brooklyn, NY 11234

Tel: 718-763-9984 FAX: 718-241-8302 Pager: 917-953-7090

Garage #	Address				Hours of Operation	# Vehicles
34416	4409 Avenue H	Brooklyn	NY	11234	4pm - 12am	96
34501	107-01 Avenue D	Brooklyn	NY	11226	4pm - 12am	111
34513	Cozine Ave	Brooklyn	NY	11234	4pm - 12am	61
34525	5415 Foster Ave	Brooklyn	NY	11234	4pm - 12am	115
34535	800 Fountain Ave	Brooklyn	NY	11208	4pm - 12am	96
34555	1580 Nostrand Ave	Brooklyn	NY	11226	8am - 12am	135
Total Vehicle Count						614

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Ken Lant

2228 Arthur Kill, Staten Island, NY 10309

Tel: 908-202-6831 FAX: 718-372-4700 Pager: - -

Garage #	Address				Hours of Operation	# Vehicles
34514	26th Ave Shore Pkwy	Brooklyn	NY	11214	8am - 12am	308
34518	180 Edgewater S	Staten Island	NY	10305	7:30am - 12am	100
34559	2228 Arthur Kill	Staten Island	NY	10309	7:30am - 12am	175
34565	1919 Neptune Ave	Brooklyn	NY	11224	7:30am - 12am	132
34569	1501 Voohres Ave	Brooklyn	NY	11235	3:30pm - 12am	65
Total Vehicle Count						780

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Dave Lindsley

5 Station Rd., Pomona, NY 10979

Tel: 914-354-0218 FAX: 914-354-8824 Pager: - -

Garage #	Address				Hours of Operation	# Vehicles
22102	10 Country Center Rd	White Plains	NY	10607	7am - 12am	8
22105	Summit Lake Dr	Valhalla	NY	10595		32
22503	455 Knollwood Rd	Greenburgh	NY	10607	3:30pm - 12am	91
22528	40 Washington Ave	Greenburgh	NY	10603	7am - 12am	233
58513	5 Station Rd	Pomona	NY	10979	7am - 12am	287
58519	616 Route 303	Blauvelt	NY	10913	4pm - 12am	80
Total Vehicle Count						651

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Jack Berger

1541 Bronx River, Bronx, NY 10472

Tel: 718-828-9929/42 FAX: 718-597-8270 Pager: 800-759-8888 (Pin #: 1168697)

Garage #	Address				Hours of Operation	# Vehicles
23402	4770 White Plains	Bronx	NY	10470	4pm - 12am	97
23501	1101 Zerega Ave	Bronx	NY	10461	4pm - 12am	141
23503	1541 Bronx River	Bronx	NY	10472	12pm - 12am	123
23549	500 Zerega Ave	Bronx	NY	10473	7am - 3pm / 4pm - 12am	277
Total Vehicle Count						638

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Phil Tedesco

175 3rd Street, Brooklyn, NY 11215

Tel: 212-338-6392 FAX: 718-788-6107 Pager: 917-980-0312

Garage #	Address				Hours of Operation	# Vehicles
35503	1882 Atlantic Ave	Brooklyn	NY	11233	8am - 12am	129
35542	980 Cypress Ave	Brooklyn	NY	11227	8am - 12am	173
35549	175 3rd St	Brooklyn	NY	11215	3:30pm - 12am	157
35555	230 43rd St	Brooklyn	NY	11232	3:30pm - 12am	83
35570	318 Nevins St	Brooklyn	NY	11215	8am - 12am	268
Total Vehicle Count						810

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Daryl Hayes

2885 Jerome Ave., Bronx, NY 10468

Tel: 914-354-0218 FAX: 914-354-8824 Pager: 917-953-7100

Garage #	Address				Hours of Operation	# Vehicles
23506	3564 Dyre Ave	Bronx	NY	10466	4pm - 12am	84
23529	2885 Jerome Ave	Bronx	NY	10468	7:30am - 12am	266
18532	101 Lincoln Ave	Bronx	NY	10036	4pm - 12am	115
15550	603 W 130th St	New York	NY	10027	4pm - 12am	93
15582	620 W 153rd St	New York	NY	10031	4pm - 12am	113
Total Vehicle Count						671

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Norm Thompson

555 W 34th Street, 2nd Floor, New York, NY 10018

Tel: 212-643-6465 FAX: 212-695-4723 Pager: 917-904-1834

Garage #	Address				Hours of Operation	# Vehicles
11502	147-164 Watt St	New York	NY	10013	4pm - 12am	26
11582	64 King St	New York	NY	10014	4pm - 12am	79
12501	111 8th Ave	New York	NY	10014	4pm - 12am	49
13501	406 E 91st St	New York	NY	10028	4pm - 12am	83
15530	West 48th St	New York	NY	10036	4pm - 12am	46
15501	460 W 129th St	New York	NY	10027	4pm - 12am	75
15570	770 11th Ave	New York	NY	10019	8am - 12am	211
18149	604-603 W 43rd St	New York	NY	10036	4pm - 12am	42
18528	555 W 34th St	New York	NY	10018	4pm - 12am	72
18550	605 W 42nd St	New York	NY	10036	4pm - 12am	29
Total Vehicle Count						712

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## Attachment G



UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

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01/16/1999  
(1/13/99)

No. 97-2138

ACUSHNET COMPANY, ET AL.,  
Plaintiffs, Appellants,

v.

COATERS INCORPORATED, ET AL.,  
Defendants, Appellees,

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BRITTANY DYEING PRINTING CORPORATION,  
Plaintiff, Appellee.

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JUDGMENT

Entered: September 15, 1999

This cause came on to be heard on appeal from the United States District Court for the District of Massachusetts, and was argued by counsel.

Upon consideration whereof, it is now here ordered, adjudged and decreed as follows: The judgment of the district court is affirmed.

Costs awarded to defendants-appellees.

By The Court

Phoebe D. Morse, Clerk

JANICE M. O'NEIL

By \_\_\_\_\_  
Chief Deputy Clerk

[cc: Messrs. Brake, Petros, House, Sherman, Jaffe]

United States Court of Appeals  
For the First Circuit

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No. 97-2138

ACUSHNET COMPANY, AMTEL INCORPORATED, AVX CORPORATION,  
BERKSHIRE HATHAWAY INC., BRIDGESTONE/FIRESTONE, INC.,  
CHAMBERLAIN MANUFACTURING CORP.,  
COMMONWEALTH ELECTRICAL COMPANY, COMMONWEALTH GAS COMPANY,  
EMHART INDUSTRIES, INC., GOODYEAR TIRE & RUBBER CO.,  
PARAMOUNT COMMUNICATIONS INCORPORATED,  
TELEDYNE RODNEY METALS A DIVISION OF TELEDYNE INDUSTRIES  
INCORPORATED, AND UNITED DOMINION INDUSTRIES, INC.,

Plaintiffs, Appellants,

v.

MOHASCO CORPORATION, MONOGRAM INDUSTRIES INC. D/B/A  
AMERICAN FLEXIBLE CONDUIT, NEW ENGLAND TELEPHONE &  
TELEGRAPH COMPANY, NORTEK, INC., AND OTTAWAY NEWSPAPERS, INC.,

Defendants, Appellees.

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APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Robert E. Keeton, U.S. District Judge]

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Before

Bownes and Cyr, Senior Circuit Judges,

and O'Toole\*, District Judge.

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Stephen J. Brake, with whom David L. Ferrera and Nutter,  
McClennen & Fish, LLP were on brief, for appellants.

Gerald J. Petros, with whom Charles D. Blackman and Hinckley,  
Allen & Snyder were on brief, for Monogram Industries and Nortek,

Inc., d/b/a American Flexible Conduit, appellees.

George W. House, with whom V. Randall Tinsley and Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P. were on brief, for Mohasco Corporation, appellee.

Deming E. Sherman, with whom Edwards & Angell, LLP, were on brief, for Ottaway Newspapers, Inc., appellee.

Seth D. Jaffe, with whom Robert S. Sanoff, Jeffrey L. Roelofs, and Foley, Hoag & Eliot, LLP were on brief, for New England Telephone & Telegraph Company, appellee.

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September 15, 1999

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\*Of the District of Massachusetts, sitting by designation.

BOWNES, Senior Circuit Judge. This appeal stems from the contamination and subsequent clean up of an area popularly known as Sullivan's Ledge, located in New Bedford, Massachusetts. Plaintiffs-appellants, collectively known as the Sullivan's Ledge Group, are thirteen corporations which received notices from the U.S. Environmental Protection Agency ("EPA") advising that the government considered them responsible for the pollution of Sullivan's Ledge under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA").<sup>1</sup> In the early 1990's, the group entered into consent decrees with EPA in which it agreed to perform remediation at the site.

Invoking § 9613(f) of CERCLA, the Sullivan's Ledge Group thereafter filed the present action in federal court seeking contribution from several parties not targeted by the EPA, including defendants-appellees: Mohasco Corporation; Monogram Industries Inc. and Nortek Inc., doing business as American Flexible Conduit ("AFC"); New England Telephone & Telegraph Company ("NETT"); and Ottaway Newspapers, Inc.<sup>2</sup>

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<sup>1</sup>The group consists of: Acushnet Co., Amtel Inc., AVX Corp., Berkshire Hathaway Inc., Bridgestone/Firestone Inc., Chamberlain Manufacturing Corp., Commonwealth Electrical Co., Commonwealth Gas Co., Emhart Industries Inc., Goodyear Tire & Rubber Co., Paramount Communications Inc., Teledyne Rodney Metals A Division of Teledyne Industries Inc., and United Dominion Industries, Inc.

<sup>2</sup>The complaint also asserted a claim under § 9613(g)(2) for a declaratory judgment that the defendants would be liable for future costs and a claim under § 9607(a) for recovery of the plaintiffs' "costs of response." We need not decide whether, as settling parties subject to a judicially approved consent decree, the plaintiffs may sue under the latter section. Their action is clearly one for contribution, authorized by § 9613(f)(1), and any

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The district court dismissed these contribution claims, granting NETT's motion for summary judgment before trial, and entering judgment as a matter of law for Mohasco, AFC, and Ottaway at the close of plaintiffs' case-in-chief. We affirm, but on somewhat different grounds than the district court. As we understand it, the district court ruled principally that the defendants deposited so little waste at the site that it could not reasonably be said that they caused plaintiffs to incur response costs. To the extent that the court's ruling may be interpreted to incorporate into CERCLA a causation standard that would require a polluter's waste to meet a minimum quantitative threshold, we disagree. Nevertheless, we conclude that the record was insufficient to permit a meaningful equitable allocation of remediation costs against any of these defendants under § 9613(f).<sup>3</sup>

I.

Once a pristine and picturesque area well-suited for swimming, hiking, and impromptu gatherings by local residents, over

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other authority for their damages claim is duplicative and unnecessary.

<sup>3</sup>42 U.S.C. § 9613(f) reads in pertinent part:

Any person may seek contribution from any other person who is liable or potentially liable under 9607(a) of this title, during or following any civil action under 9606 of this title or under 9607(a) of this title. Such claims shall be brought in accordance with this section and the Federal Rules of Civil Procedure, and shall be governed by Federal law. In resolving contribution claims, the court may allocate response costs among liable parties using such equitable factors as the court determines are appropriate.

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the years Sullivan's Ledge became little more than an industrial dumping ground for scrap rubber, waste oils, gas, combustion ash, and old telephone poles. Sullivan's Ledge was the source of smoke dense enough periodically to obscure the visibility of drivers on nearby roads; residents in the surrounding region commonly blamed the pollution for diminished air quality. The sludge became so toxic, the refuse so thick, and the stench so overwhelming, that city officials closed down the area in the 1970's.

Eventually, the EPA identified a number of business entities, or their successors-in-interest, which it believed were legally responsible for the decades-long pollution at the site. In 1991 and 1992, after lengthy negotiations, members of the Sullivan's Ledge Group entered into two separate consent decrees with the United States. The decrees required them to implement a remediation plan and, to some extent, shoulder the costs of restoring the contaminated site to its non-hazardous state, without foreclosing their right to seek contribution from any other responsible parties. They duly commenced clean up efforts in compliance with the consent decrees, and, in turn, brought this contribution action to recover some portion of the realized and anticipated costs.

Plaintiffs accused NETT of dumping the butts of old telephone poles that had been treated with liquid creosote chock-full of Polycyclic Aromatic Hydrocarbons ("PAHs"). They alleged that Nortek and Monogram d/b/a AFC, a manufacturer of conduit and lead-based cable, generated and discarded scrap cable containing

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lead, copper, and zinc. According to the complaint, New Bedford Rayon, the predecessor-in-interest to Mohasco, deposited waste from the manufacture of rayon filament thread containing, inter alia, sodium hydroxide, copper, and sulfuric acid. In rounding out the cast of defendants, plaintiffs alleged that The New Bedford Standard Times, the predecessor to Ottaway, generated and disposed of ink sludge bursting with sulfuric acid, nitric acids, and various metals.<sup>4</sup>

In due course, NETT moved for summary judgment. Although NETT conceded for purposes of the motion that it had discarded utility pole butts containing PAHs at the site, NETT argued that its waste added so few PAHs to the mix compared to the overall quantity of PAHs found at Sullivan's Ledge that NETT could not fairly be said to have contributed to the environmental harm or "caused" any of the remediation expenses.

The district court granted the motion during a hearing on June 11, 1996, (followed by a more extensive opinion issued July 24), ruling that NETT had proffered "uncontradicted expert testimony asserting that NETT did not cause, and, in fact, could not have caused the plaintiffs to incur any 'response costs.'" Acushnet Co. v. Coaters Inc., 937 F. Supp. 988, 992 (D. Mass. 1996) ("Acushnet I"). Specifically, the district court stated that this scientific evidence showed that the creosote-treated pole butts

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<sup>4</sup>They also sued several additional parties, including Cornell-Dubilier Electronics, Inc., against whom it obtained a judgment in the amount of 7% of response costs, but those claims are not part of this appeal.

could not have leached PAHs into the soil in an amount greater than pre-existing background PAH levels and that other sources provided the overwhelming proportion of PAH found at Sullivan's Ledge. Because, according to the court, plaintiffs failed to adduce any evidence directly challenging this expert testimony, the court found no triable issue of fact as to causation and entered summary judgment in favor of NETT.

The remaining defendants proceeded to trial. Upon the completion of plaintiffs' case-in-chief, the district court entertained dispositive motions. Mohasco, AFC, and Ottaway moved for judgment as a matter of law, arguing in substance that the environmental harm at Sullivan's Ledge was divisible and that the evidence was insufficient to permit a finding that the material the defendants dumped at the site caused any response costs. Ottaway also argued that plaintiffs had failed to establish that its wastes had actually been transported to Sullivan's Ledge.

Ruling from the bench on December 2, 1996,<sup>5</sup> the court determined that, viewed in the light most favorable to plaintiffs, the case against each of the three defendants suffered "primarily from insufficiency of the evidence." It found that "the evidence the plaintiffs proffered against these three defendants . . . is so dramatically below any conceivable appropriate formulation of the [applicable legal] standard, that the outcome of judgment for these

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<sup>5</sup>The court supplemented its oral ruling with a published opinion on December 17, 1996.



defendants at this time is clear without resolving just where those guidelines will ultimately leave the formulation."

The court explained that, at most, plaintiffs had succeeded in showing that two cubic yards of solid cable waste was attributable to AFC, comprising no more than a fraction of the lead and zinc found at Sullivan's Ledge:

Looking at AFC as perhaps plaintiffs' best shot among the three, . . . at best, . . . a jury could not find that on an equitable basis, consistent with the Gore factors and with preceden[ts] interpreting the statute, AFC would not be responsible for more than one in 500,000<sup>th</sup> -- one in 500,000 share, and that that would translate . . . into one hundred dollars. That demonstrates that we're so far below anything that could be classified as an equitable standard of determining shares of legal accountability, that anybody that low, any entity that low, ought to be kept out . . . .

For this reason, it concluded that the evidence at trial against AFC "fails every version one might conceive of an 'equitable factors' test." Acushnet Co. v. Coaters, Inc., 948 F. Supp. 128, 139 (D. Mass. 1996) ("Acushnet II").

As for Mohasco, the court found plaintiffs' evidence against Mohasco even weaker than that against AFC. Not only was Mohasco's apparent share of the hazardous waste far smaller than plaintiffs' contribution, plaintiffs' own witnesses conceded that the types of hazardous substances attributable to Mohasco would not "persist in the environment," and "would not have even reached the site because of chemical reactions with other materials." Id.

In dismissing Ottaway from the litigation, the court said little other than that the case against Ottaway was "obviously

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weaker than plaintiffs' case against . . . either of these [other] two defendants."

Lest there be any doubt, the trial judge reiterated that the Sullivan's Ledge Group's claims against these three defendants failed "on two independent grounds": first, the evidence was insufficient to bring AFC, Mohasco, and Ottaway within the group for which "the calculus of appropriate proportional shares" of liability for response costs could be made "and, secondly, on grounds of a lack of showing of causal connection with respect to remediation costs." See also Acushnet II, 948 F. Supp. at 139.

The district court entered judgment accordingly. Plaintiffs now appeal from each of the court's rulings.

## II.

CERCLA, as we have said on other occasions, sketches the contours of a strict liability regime. See, e.g., Millipore Corp. v. Travelers Indem. Corp., 115 F.3d 21, 24 (1st Cir. 1997). Broad categories of persons are swept within its ambit, including the current owner and operator of a vessel or facility; the owner or operator of a facility at the time hazardous waste was disposed of; any person who arranged for the transportation of hazardous substances for disposal or treatment; and anyone who accepted hazardous waste for transportation. See 42 U.S.C. § 9607(a)(1)-(4). There are a few affirmative defenses available, see § 9607(b), but they are generally difficult to satisfy (they include showing that the release or threat of release was caused solely by an act of God or an act of war). By and large, a person

who falls within one of the four categories defined in § 9607(a) is exposed to CERCLA liability.

While CERCLA casts the widest possible net over responsible parties, there are some limits to its reach. The courts of appeals have generally recognized that "although joint and several liability is commonly imposed in CERCLA cases, it is not mandatory in all such cases." In re Bell Petroleum Servs., Inc., 3 F.3d 889, 895 (5th Cir. 1993) (discussing import of deletion of joint and several liability language from final version of bill); see United States v. Alcan Aluminum Corp., 964 F.2d 252, 268 (3d Cir. 1992) ("Alcan I").

In O'Neil v. Picillo, 883 F.2d 176 (1st Cir. 1989), we embraced the Restatement (Second) of Torts approach in construing the statute, stating that a defendant may avoid joint and several liability if the defendant demonstrates that the harm is divisible. In that event, damages should be apportioned according to the harm to the environment caused by that particular tortfeasor. Id. at 178-79; accord Dent v. Beazer Materials and Servs., 156 F.3d 523, 529 (4th Cir. 1998); United States v. Township of Brighton, 153 F.3d 307, 317-18 (6th Cir. 1998); United States v. Alcan Aluminum Corp., 990 F.2d 711, 722 (2d Cir. 1993) ("Alcan II"); Alcan I, 964 F.2d at 268-70. See generally Restatement (Second) of Torts § 433A (1965).

A responsible party, in turn, may bring an action for contribution under § 9613(f) to recover a portion of costs from "any other person who is liable or potentially liable under

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§ 9607(a)." The standard for contribution liability is the same as that under § 9607(a), see Prisco v. A&D Carting Corp., 168 F.3d 593, 603 (2d Cir. 1999), but in resolving contribution claims, a court may, in its discretion, "allocate response costs among liable parties using such equitable factors as the court determines are appropriate." § 9613(f)(1).

A plaintiff seeking contribution must prove that:

1. The defendant must fall within one of four categories of covered persons. 42 U.S.C. § 9607(a).
2. There must have been a "release or threatened release" of a hazardous substance from defendant's facility. 42 U.S.C. § 9607(a)(4); § 9601(14), (22).
3. The release or threatened release must "cause[] the incurrence of response costs" by the plaintiff. 42 U.S.C. § 9607(a)(4).
4. The plaintiff's costs must be "necessary costs of response . . . consistent with the national contingency plan." 42 U.S.C. § 9607(a)(4)(B); § 9601(23)-(25).

Dedham Water Co. v. Cumberland Farms Dairy, 889 F.2d 1146, 1150 (1st Cir. 1989) ("Dedham I").

Generators whose waste has been deposited in the facility from which there has been a release are presumptively responsible for the response costs, subject to the opportunity to prove (i) that the harm was solely caused by someone (or something) else (see § 9607(b)) or (ii) that the harm they caused is divisible (see O'Neil, 883 F.2d at 179), and subject further to the equitable allocation of relative shares of responsibility in an action for contribution (see § 9613(f)(1)).

The parties do not dispute that Sullivan's Ledge is a "facility" or that each of the defendants was a responsible person within the meaning of § 9607(a). Instead, they hotly contest the correct legal standard by which one could be said to have "caused" plaintiffs to incur remediation expenditures, and whether the record was adequate to allow any meaningful award of response costs.

### III.

The Sullivan's Ledge Group mounts a three-fold attack on the district court's reasoning in resolving the respective motions. Its arguments on appeal are broad-brushed in nature, focusing almost entirely on the legal meaning of "causation" and CERCLA's underlying policy goals. First, plaintiffs insist that reading any causal element into CERCLA is inconsistent with the principle of strict liability. Second, they contend that doing so would run counter to the remedial purpose of CERCLA because, among other things, it will let smaller polluters off the hook and discourage responsible parties from entering into consent agreements with the government. Third, to the extent the district court may have considered equitable factors in ruling in favor of Mohasco, Ottaway, and AFC, plaintiffs claim that the court did so without providing a "full and fair allocation trial" within the meaning of section 9613(f).

Defendants-appellees, for their part, contend that it makes sense to say that a de minimis polluter has not caused a responsible party to incur clean up costs; and that, in all events,

plaintiffs' contribution claims against them founder for a more fundamental reason: the record did not permit a finding that each should bear a meaningful share of the costs associated with restoring Sullivan's Ledge. In their view, these fatal weaknesses in the plaintiffs' case justified judgment as a matter of law in their favor.

Each of the defendants stands on slightly different terrain, having been dismissed from the action at various stages in the proceedings. We therefore proceed to analyze plaintiffs' arguments within the context of addressing the trial court's disposition of the claims lodged against each defendant.

We affirm the district court's handling of NETT's summary judgment motion, albeit based on a slightly different rationale than the court's own. Although the court initially framed it in terms of causation (erroneously, we believe), a finding of no liability on the part of NETT is nevertheless justified under the principle of equitable allocation under § 9613(f).<sup>6</sup>

We have strong reservations about interpreting the statute's causation element to require that a defendant be responsible for a minimum quantity of hazardous waste before liability may be imposed. The text of the statute does not support such a construction -- CERCLA itself does not expressly distinguish between releases (or threats of releases) by the quantity of

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<sup>6</sup>NETT further contends that application of CERCLA to its conduct would unconstitutionally impose substantial liability in a retroactive manner and would deprive it of due process of law. Because we uphold the court's decision on other grounds, we need not address these arguments.

hazardous waste attributable to a particular party. At least on its face, any reasonable danger of release, however insignificant, would seem to give rise to liability. On this point, the courts of appeals are in unison. See, e.g., A&W Smelter and Refiners, Inc. v. Clinton, 146 F.3d 1107, 1110 (9th Cir. 1998); Alcan II, 990 F.2d at 720; Alcan I, 964 F.2d at 260-63; Amoco Oil Co. v. Borden, Inc., 889 F.2d 664, 669 (5th Cir. 1990); see also 42 U.S.C. § 9601(14) (defining "hazardous substance" without mentioning minimum levels); § 9607(a) (employing broad "any person" language).

To read a quantitative threshold into the language "causes the incurrence of response costs" would cast the plaintiff in the impossible role of tracing chemical waste to particular sources in particular amounts, a task that is often technologically infeasible due to the fluctuating quantity and varied nature of the pollution at a site over the course of many years.

Moreover, it would be extremely difficult, if not impossible, to articulate a workable numerical threshold in defining causation. How low would a polluter's contribution to the mix have to be before a judge could find, with equanimity, that the polluter was not a but-for "cause" of the clean up efforts? Less than 0.5% or 1%? We do not see how such a line, based on the quantity or concentration of the hazardous substance at issue, can be drawn on a principled basis in defining causation. To even begin down that path, we feel, is to invite endless confusion.

Our own decisions provide no basis for such an approach. There is only one case in which we held that clean up efforts were

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not carried out because of a defendant's dumping: where a water treatment plant had been designed well before its planners acquired knowledge that the defendant might have released hazardous waste into the environment. We found that, to the extent that the plaintiff incurred costs in connection with the planning and design of the treatment facility before it became aware of possible pollution by the defendant, it had not responded to any threatened future releases, but had only spent money to address the actual contamination of the site. Accordingly, we held in Dedham II that such expenditures were not "caused" by a threatened release from the defendant's facility. See 972 F.2d at 460-61.

That, however, is the only situation in which we have found an insufficient causal nexus between a defendant and the remediation expenditures. And we have never discussed CERCLA causation in quantitative terms. To satisfy the causal element, it is usually enough to show that a defendant was a responsible party within the meaning of 9607(a); that clean up efforts were undertaken because of the presence of one or more hazardous substances identified in CERCLA; and that reasonable costs were expended during the operation.<sup>7</sup> To the extent that the district court held that

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<sup>7</sup>It might, of course make sense to say that a defendant's release did not "cause" the incurrence of response costs when the monies were expended for purposes wholly unrelated to responding to environmental contamination. And we suppose it may even be accurate to say that a generator or transporter of waste did not cause a plaintiff to incur remediation costs when that person did not actually cause any alleged contamination, see United States v. Dico, Inc., 136 F.3d 572, 578 (8th Cir. 1998), or perhaps even where clean up efforts were directed at cleaning up toxins other than those attributed to the defendant.



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some minimal quantity of hazardous waste must be involved before a defendant may be held to have "caused" the expenditure of response costs, it was mistaken. See O'Neil, 883 F.2d at 179 n.4 (expressly rejecting, in a related context, the argument that one must demonstrate that defendant was a "substantial" cause of the contamination before CERCLA liability attaches).

This does not mean, however, that the de minimis polluter must necessarily be held liable for all response costs. The approach taken by the Second Circuit is instructive. In Alcan II, 990 F.2d 711 (2d Cir. 1993), the Second Circuit reaffirmed the Restatement (Second) of Torts approach to fleshing out the scope of CERCLA liability, holding that where environmental harms are divisible, a defendant may be held responsible only for his proportional share of the response costs. In extending the principle a half-step, the Second Circuit went on to say that:

[A defendant] may escape any liability for response costs if it either succeeds in proving that its [waste], when mixed with other hazardous wastes, did not contribute to the release and cleanup costs that followed, or contributed at most to only a divisible portion of the harm.

Id. at 722. The court emphasized that this particular defense was limited to situations where a defendant's "pollutants did not contribute more than background contamination and also cannot concentrate." Id. It acknowledged that causation was, in some sense, "being brought back into the case - through the backdoor, after being denied entry at the frontdoor - at the apportionment stage." Id. Nevertheless, the court concluded that a defendant who

successfully meets its burden can "avoid liability or contribution." Id. at 725. The Alcan II panel took great pains to leave questions of liability, including the divisibility of environmental harm, and equitable apportionment of clean up expenses, to the sound discretion of the trial judge to be handled in the manner and order he or she deems best. Id. at 723. We think the Second Circuit had it right.

We therefore hold that a defendant may avoid joint and several liability for response costs in a contribution action under § 9613(f) if it demonstrates that its share of hazardous waste deposited at the site constitutes no more than background amounts of such substances in the environment and cannot concentrate with other wastes to produce higher amounts. This rule is not based on CERCLA's causation requirement, but is logically derived from § 9613(f)'s express authorization that a court take equity into account when fixing each defendant's fair share of response costs.<sup>8</sup>

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<sup>8</sup>Because contribution may only be had from a joint tortfeasor, a defendant in a contribution action arguably would have two bites at the apple: he could try to show that (a) the harm is divisible (a function of the causation inquiry) and that he is thus liable only for his share of the damage; and (b) even though he may be a joint tortfeasor, he ought not bear full liability due to one or more equitable reasons. It may or may not make sense to allow a divisibility of harm defense in a § 9613(f) action, see e.g., Redwing Carriers, Inc. v. Saraland Apartments, 94 F.3d 1489, 1513-14 (11th Cir. 1996) (holding that divisibility of harm is not available as a defense in contribution actions), even though many of the same considerations would come into play under the rubric of equity. Since the trial court here rendered no definitive findings as to the divisibility of the environmental damage at Sullivan's Ledge, and because a definitive view on the matter is not required to resolve this appeal, we leave this question for another day.

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We caution, however, that not every de minimis polluter will elude liability in this way. As always, an equitable determination must be justified by the record.

There are several reasons why, after all is said and done, an otherwise responsible party may be liable for only a fraction of the total response costs or escape liability altogether. In the first place, § 9613(f) expressly contemplates that courts will take equity into account in resolving contribution claims. We have in the past suggested that while a defendant in a direct EPA enforcement action invoking the divisibility of harm defense bears an "especially heavy burden," a defendant in a contribution proceeding seeking to limit his liability has a "less demanding burden of proof" by virtue of the equitable considerations that come immediately into play. In re Hemingway Transp., Inc., 993 F.2d 915, 921 n.4 (1st Cir. 1993); see also O'Neil, 883 F.2d at 183 (stating that a defendant's burden is "reduced" in a contribution action). A court, in evaluating contribution claims under § 9613(f), is "free to allocate responsibility according to any combination of equitable factors it deems appropriate." O'Neil, 883 F.2d at 183. Accord FMC Corp. v. Aero Indus., Inc., 998 F.2d 842, 846-47 (10th Cir. 1993); Environmental Transp. Svs., Inc. v. ENSCO, Inc., 969 F.2d 503, 509 (7th Cir. 1992). In an appropriate set of circumstances, a tortfeasor's fair share of the response costs may even be zero. See PMC, Inc. v. Sherwin-Williams Co., 151 F.3d 610, 616 (7th Cir. 1998) (a party's "spills may have been too inconsequential to affect the

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cost of cleaning up significantly, and in that event a zero allocation would be appropriate") (Posner, J.), cert. denied, 119 S. Ct. 871 (1999); O'Neil, 883 F.2d at 183 (same).

In the second place, there is nothing to suggest that Congress intended to impose far-reaching liability on every party who is responsible for only trace levels of waste. Several courts, albeit taking different paths to a similar result, have rejected the notion that CERCLA liability "attaches upon release of any quantity of a hazardous substance." Licciardi v. Murphy Oil USA, 111 F.3d 396, 398 (5th Cir. 1997) (quoting Amoco Oil, 889 F.2d at 670) (emphasis in original;<sup>9</sup> see e.g., PMC, 151 F.3d at 616; Gopher Oil Co. v. Union Oil Co. of Cal., 955 F.2d 519, 527 (8th Cir. 1992)).

Third, allowing a CERCLA defendant to prevail on issues of fair apportionment, even at the summary judgment stage, is consistent with Congress's intent that joint and several liability not be imposed mechanically in all cases. Permitting a result that is tantamount to a no-liability finding is in keeping with the legislative goal that clean up efforts begin in a speedy fashion and that litigation over the details of actual responsibility follow. In fact, to require an inconsequential polluter to litigate until the bitter end, we believe, would run counter to Congress's mandate

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<sup>9</sup>We think, however, that the Fifth Circuit's approach, which demands a finding that defendant's pollution "posed a[] threat to the public or the environment" before it may be said that he has caused plaintiff to incur response costs, goes too far. Amoco Oil, 889 F.2d at 670. We concur in the Ninth Circuit's assessment that that interpretation "reads much too much into the word 'causes' in section 9607(a)(4)." A&W Smelter, 146 F.3d at 1110.

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that CERCLA actions be resolved as fairly and efficiently as possible. On the whole, the costs and inherent unfairness in saddling a party who has contributed only trace amounts of hazardous waste with joint and several liability for all costs incurred outweigh the public interest in requiring full contribution from de minimis polluters.

Plaintiffs complain that any consideration of causation is at odds with CERCLA's objectives and would discourage responsible parties from entering into consent decrees. Because we ground the quantum inquiry solidly in § 9613(f), we are satisfied their prophesy will not come to pass. The ultimate failure of a contribution claim because someone did only a negligible amount of harm does not impede enforcement by the EPA or frustrate any of CERCLA's objectives.

**A.**

Relying on favorable case law from the Second and Third Circuits, NETT attempted to prove that it contributed only trace amounts of hazardous waste to Sullivan's Ledge. At the summary judgment stage, once a movant has offered evidence showing that there is no dispute as to any material fact and that he is entitled to judgment as a matter of law, the non-moving party must come forward with sufficient evidence to create a triable issue of fact; if he fails to do so, that is the end of the matter. See Fed. R. Civ. P. 56.

In its motion for summary judgment, NETT contended that "it is beyond material dispute that no wastes disposed of by [NETT] . . . , even when considered with wastes disposed by other persons, could have contributed to the environmental harm at the Site or to the incurrence of response costs" and therefore "such wastes cannot be the basis for the imposition of any liability" upon it. As the moving party, NETT undertook the burden of satisfying the court that its motion ought to be granted.

It offered extensive expert evidence to the effect that the concentration of PAHs from NETT telephone poles, if in fact such poles were left at the site, was negligible. In a series of reports, Dr. John Tewhey estimated that some 335,000 pounds of PAHs were disposed of at Sullivan's Ledge, confirmed that the Sullivan's Ledge Group was responsible for most of this pollution, and stated that PAHs from telephone pole butts could have added no more than negligible amounts to existing PAHs in the surrounding region. He stated that PAH levels in soil samples from areas near where utility poles were located revealed the same amount of PAH found in many popular foods.

We have already rejected the district court's reasoning inasmuch as it may have been rooted in a theory of causation that required some quantitative threshold. But even if NETT may be said to have caused plaintiffs to incur response costs, plaintiffs failed to rebut NETT's evidence showing that it should bear no more than a de minimis share of the remediation expenditures under § 9613(f).

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NETT essentially offered evidence tending to show that its equitable share would amount to zero; plaintiffs gave only a non-responsive rejoinder, mostly by insisting (wrongly) that causation is irrelevant.

Questions of causation and appropriate equitable allocation of response costs involve quintessential issues of fact. See Dedham II, 972 F.2d at 457. But we see nothing especially onerous about requiring the Sullivan's Ledge Group to come forward with admissible evidence where a defendant has fairly raised the issues. See Amoco Oil, 889 F.2d at 667-68 (approving use of summary judgment to hone trial-worthy issues in multi-defendant CERCLA cases). All that need be done to survive that stage is to submit admissible evidence sufficient to point up a factual dispute. It is no different than asking a plaintiff to proffer some evidence as to damages where a defendant has claimed in summary judgment papers that the plaintiff has, in fact, suffered no compensable harm. Given the Sullivan's Ledge Group's failure to meet its burden in this regard, the trial court properly entered judgment for NETT.

We turn now to the district court's rulings in favor of AFC, Monasco, and Ottaway.

**B.**

As a threshold matter, there is some slight confusion as to whether the trial judge's decision for these defendants was based on Rule 50 (judgment as a matter of law) or Rule 52 (findings of fact and conclusions of law after a bench trial). On the one hand,

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he explicitly stated that he was viewing the evidence in the light most favorable to the plaintiffs, the usual standard for Rule 50 motions; he also impaneled a jury to resolve certain factual matters, raising the added question whether Rule 52 would even be appropriate. See Fed. R. Civ. P. 52(a) (applicable to actions "tried upon the facts without a jury or with an advisory jury"). On the other hand, the judge also spoke in terms of making "findings of fact and conclusions of law."

Although the court flirted with the prospect of entering judgment by way of Rule 52 (saying, "whichever way I went about it, it would come about the same"), we think it sufficiently clear that the court intended to employ judgment as a matter of law as its principal lens for viewing plaintiffs' claims. See App. at 05812 ("I am calling them Rule 50 judgments."). Because we conclude that the trial judge engaged the gears of Rule 50, we scrutinize his legal conclusions de novo.<sup>10</sup> Plaintiffs' evidence must be viewed in the light most favorable to them, and all reasonable inferences from the record must be drawn to their advantage. See Koster v. Trans World Airlines, Inc., \_\_ F.3d \_\_, No. 98-1757, 1999 WL 396023, at \*2 (1st Cir. June 21, 1999).

We affirm the judgment on the basis that the evidence was inadequate to permit a rational factfinder to make a quantifiable

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<sup>10</sup>Had the district judge made actual allocations under § 9613(f), his equitable determinations would not be overturned unless he abused his discretion in some fashion, and any underlying findings of fact would be subject to clear error. See Dedham II, 972 F.2d at 457.



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allocation of response costs to AFC, Mohasco, or Ottaway under § 9613(f). See Hodgens v. General Dynamics Corp., 144 F.3d 151, 173 (1st Cir. 1998) ("We will affirm a correct result reached by the court below on any independently sufficient ground made manifest by the record.").

While no precise allocations were made in this case, a trial court's perspective is nevertheless instructive as to the equitable considerations most relevant to the dispute at hand. Here, the court found the respective quantities of hazardous materials attributable to each defendant, the toxicity of the respective wastes, and their durability to be highly relevant to fixing an equitable share. Within this general framework, the court assessed the Sullivan's Ledge Group's evidence and found it inadequate. We agree.

Plaintiffs' evidence at trial tended to show that AFC was responsible for hazardous waste at Sullivan's Ledge on a scale "thousands of times less than the remaining contribution of others"; that, in terms of sheer mass, the two cubic yards of solid waste attributable to AFC constituted an insignificant amount of pollution when compared to over one million cubic yards of waste found at Sullivan's Ledge; that the remediation plan was largely driven by the presence of hazardous substances other than copper and zinc; and that the materials attributable to AFC was not as toxic as the other substances discovered at the site, namely, PAHs, Volatile Organic Compounds, and Polychlorinated Biphenyls. Taking at face value

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plaintiffs' own estimates of the costs of remediation, AFC's share of response costs, in the most generous formulation, would amount to no more than 1/500,000 of \$50 million amounting to less than \$100.

Two main factors underlay the trial court's ruling in favor of Mohasco: (1) Plaintiffs' evidence against Mohasco was far weaker than that against AFC; and (2) undisputed scientific testimony by plaintiffs' own experts that hazardous substances attributed to Mohasco "would not persist in the environment."

As for Ottaway, beyond the small amount of material attributable to its predecessor-in-interest, The New Bedford Standard Times, plaintiffs' evidence actually linking The New Bedford Standard Times to the ink waste at Sullivan's Ledge was thin at best.

On appeal, plaintiffs make no real effort to challenge the court's characterization of their evidence or of each defendant's apparent equitable share of the clean up expenditures. Eschewing a direct attack on the factual bases for the court's ruling, they instead make a series of arguments aimed at the court's legal reasoning and the general format of the proceedings.

They first suggest that equitable determinations played no role in the court's decision and therefore provide an inadequate ground for affirmance.<sup>11</sup> Even a cursory examination of the record

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<sup>11</sup>This reason comes in response to defendants' argument on appeal that the trial judge's view as to the equitable factors involved constituted findings of fact, and, consequently, that they

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puts this argument to rest. The court repeatedly referred to the equitable factors it found most salient, and discussed the weight of the evidence as to each of these factors. While the judge was not making specific allocations, it is plain to us he was holding that, in light of the equitable factors he would apply should he make explicit findings, plaintiffs' evidence showed too little pollution to justify compelling defendants to take on any meaningful share of the response costs. We read him to say that if he had to make an allocation for AFC, Mohasco, and Ottaway, the evidence dictated that each of their shares for response costs would be zero. The court's reasoning is therefore sufficiently transparent as to provide a basis for affirmance. We add that, even if the trial court's explanations were less than lucid (which they are not), we would still have the power to affirm on any ground apparent on the face of the record. See Mesnick v. General Elec. Co., 950 F.2d 816, 822 (1st Cir. 1991) ("An appellate panel is not restricted to the district court's reasoning but can affirm a summary judgment on any independently sufficient ground.").

Plaintiffs next argue that the trial court erroneously presumed them liable for response costs in violation of 42 U.S.C. § 9622(d)(1)(B) (providing that execution of consent decree in connection with CERCLA enforcement "shall not be considered an admission of liability"). This, they argue, improperly imposed on plaintiffs a burden they should not have been required to bear,

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provide an alternative basis for affirmance.

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namely, that of proving their own non-liability. This argument, too, is easily rejected. The judge made it perfectly clear that all of the parties were starting "on equal ground," that he "was not assuming that anybody has any special burdens in this case," and that he was "not drawing [an adverse] inference" from the consent decrees. Although the court did mention the "fundamental principle" that injuries be left where they lie unless judicial intervention is warranted, that is simply another way of saying that plaintiffs at all times had the burden of proving their contribution claims.

There is one final matter to be untangled. The Sullivan's Ledge Group suggests that insofar as the trial judge purported to make equitable findings under § 9613(f), it did so prematurely. Plaintiffs insist that a remand is warranted so that a full and fair hearing may be held before the court can accurately allocate the response costs among each of the liable parties.

We are aware that a specific allocation cannot logically be made until a defendant has been deemed liable as a responsible party, for contribution may only be obtained from joint tortfeasors. Nevertheless, we are mindful of the complex nature of these kinds of lawsuits. District courts have considerable latitude to deal with issues of liability and apportionment in the order they see fit to bring the proceedings to a just and speedy conclusion. See Alcan II, 990 F.2d at 723. CERCLA does not demand a bifurcated trial on this score, nor have we insisted that the many knotty issues that

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arise in the typical CERCLA action be resolved in any particular chronological order.

On this record, we find no abuse of discretion in the court's failure to make more detailed findings or to hold a separate allocation hearing. Nothing in the record suggests that plaintiffs complained about the unified nature of the § 9613(f) proceedings. If plaintiffs felt truly hampered by the structure of the trial, they should have interposed a timely objection. We also think it telling that they make no effort to describe the additional material it would present to the trial judge were we to order a remand. We will not order a remand when it is likely to be an empty exercise. Finally, the fact that the court received the Sullivan's Ledge Group's evidence over the course of seventeen days convinces us that plaintiffs had every opportunity to submit any and all relevant evidence at its disposal on the issues of liability and equitable apportionment.

Affirmed. Costs awarded to defendants-appellees.